

Extra Ordinary Part - V / 2006

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] THURSDAY, FEBRUARY 16, 2006/MAGHA 27, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT CINEMAS (REGULATION) (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 1 OF 2006.

A BILL

further to amend the Gujarat Cinemas (Regulation) Act, 2004.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Cinemas (Regulation) (Amendment) Act, 2006. Short title.

Guj. 21 of 2004.

2. In the Gujarat Cinemas (Regulation) Act, 2004, the existing section 8 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered and before the proviso thereunder, the following sub-section shall be inserted, namely :- Amendment of section 8 of Guj. 21 of 2004.

Guj. 16 of 1977.

“(2) The holder of a licence or the proprietor of a cinematograph fails to pay any tax including any penalty or interest due from him, the licensing authority may, on recommendation of the prescribed officer under section 20A of the Gujarat Entertainments Tax Act, 1977, revoke the licence or suspend it for not less than seven days:”

STATEMENT OF OBJECTS AND REASONS

Entertainment tax is levied on cinematograph under the Gujarat Entertainments Tax Act, 1977. In default of payment of the entertainment tax including any interest or penalty due from cinema owners, there is no provision either in the Gujarat Entertainments Tax Act, 1977 or in the Gujarat Cinemas (Regulation) Act, 2004, to revoke or suspend the licence of such cinema owners. With a view to making effective recovery of dues, it is necessary to confer such power to the licensing authority by amending the existing provisions of the Gujarat Cinemas (Regulation) Act, 2004.

This Bill seeks to achieve the aforesaid object.

Dated the 13th February, 2006.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 16th February, 2006.

S.S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] FRIDAY, FEBRUARY 17, 2006/MAGHA 28, 1927

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(to be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT REPEALING BILL, 2006.

GUJARAT BILL NO. 2 OF 2006.

A BILL

to repeal certain Acts.

WHEREAS, it is expedient to repeal certain obsolete Acts;

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Repealing Act, 2006.
2. The Acts specified in the Schedule are hereby repealed.

Short title.

Repeal of certain Acts.

SCHEDULE
(See section 2)

Sr. No.	Short title of the Act	Year	No.
1.	The Act for Avoiding Wagers (Amendment) Act, 1865.	1865	Bom. III
2.	The Bombay Race-courses Licensing Act, 1912.	1912	Bom. III
3.	The Bombay Abolition of Whipping Act 1957.	1957	Bom. XXXIX

STATEMENT OF OBJECTS AND REASONS

The Act for Avoiding Wagers (Amendment) Act, 1865, the Bombay Race Courses Licensing Act, 1912 and the Bombay Abolition of Whipping Act, 1957 were applicable in the State of Bombay prior to 1st May, 1960. The aforesaid Acts were adapted by and extended to the State of Gujarat on its formation on the 1st May, 1960.

At a meeting to review the provisions of the existing laws including the laws dating back to British rule, then Chairman of the Gujarat State Law Commission recommended that the provisions of the Bombay Abolition of Whipping Act, 1957, the Act for Avoiding Wagers (Amendment) Act, 1865 and the Bombay Race-courses Licensing Act, 1912 are not applicable and relevant to the State of Gujarat and any new provisions are also not required to be made and therefore these laws should be repealed.

Thus, the Act for Avoiding Wagers (Amendment) Act, 1865, the Bombay Race-courses Licensing Act, 1912 and the Bombay Abolition of Whipping Act, 1957 are not required to be kept on the Statute Book. It is, therefore, considered necessary to repeal the aforesaid obsolete Acts.

This Bill seeks to achieve the aforesaid objects.

Dated the 15th February, 2006.

AMIT SHAH.

Gandhinagar
Dated the 17th February, 2006

S.S. PARMAR,
Secretary to the Government of Gujarat
Legislative and Parliamentary Affairs
Department



सत्यमेव जयते

The Gujarat Government Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. XLVII]

FRIDAY, FEBRUARY 17, 2006/MAGHA 28, 1927

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

**THE GUJARAT PURCHASE TAX ON SUGARCANE
(AMENDMENT AND VALIDATION) BILL, 2006.**

GUJARAT BILL NO. 3 OF 2006.

A BILL

further to amend the Gujarat Purchase Tax on Sugarcane Act, 1989 and to validate the grant of deferment of payment of tax, and to waive the interest.

It is hereby enacted in the Fifty-seventh Year of the Republic of India, as follows:-

1. This Act may be called the Gujarat Purchase Tax on Short title.
(Amendment and Validation) Act, 2006.

- Amend-
ment
of
section
18
of Guj.
11
of 1989.
2. In the Gujarat Purchase Tax on Sugarcane Act, 1989 (hereinafter referred to as "the principal Act"), in section 18, after sub-section (2), the following sub-section shall be and shall be deemed always to have been added, namely:-
- "(3) Subject to such conditions as may impose, the State Government may in the public interest, by general or special order, waive the whole or any part of interest payable by the owner under this section."
- Amend-
ment of
section
19 of
Guj. 11
of 1989.
3. In the principal Act, in section 19, in sub-section (1), the following words shall be and shall be deemed always to have been added at the end, namely:-
- "or grant the deferment of payment of tax payable in respect of any period by the owner."
- Validation
of
remission
of interest
and
deferred
payment
of tax.
4. Any interest payable by the owner for any period has been waived or any deferment of payment of tax granted by any order of the State Government before the commencement of this Act shall be and shall be deemed always to have been validly waived or granted in accordance with law as if the provisions of sections 18 and 19 of the principal Act as amended by this Act had been in force at all material time when such interest was waived or the deferment of payment was granted.

STATEMENT OF OBJECTS AND REASONS

The State Government had granted the benefit of the deferment of purchase tax payable by the co-operative sugar factories under the Gujarat Purchase Tax on Sugarcane Act, 1989 on the purchases of sugarcane. A point has been raised in the audit that in absence of any provisions in the Act for relaxation of time limit for payment of tax or any provisions for deferment or remission of interest, the benefit accorded by the Government to sugar factories is not consistent with the provisions of the Act. It is therefore, considered necessary to take power, with retrospective effect, to grant the deferment of payment of tax as well as to waive the interest payable by the owner and also to validate the action taken by the Government in respect of the benefit granted to the owner.

This Bill seeks to amend sections 18 and 19 of the said Act to achieve the aforesaid object.

SAURABH PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 2.- Sub-section (3) proposed to be added in section 18 by this clause empowers the State Government to waive, by an order, the interest payable by the owner.

Clause 3.- Sub-section (1) of section 19 proposed to be amended by this clause empowers the State Government to grant, by an order, the deferment of payment of tax payable by the owner.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 17th February, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 17th February, 2006,

Government Central Press, Gandhinagar.

EXTRA NO. 4

REGISTERED No. G/GNR/2



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, FEBRUARY 20, 2006/PHALGUNA 1, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY POLICE (GUJARAT AMENDMENT AND VALIDATION) BILL, 2006.

GUJARAT BILL NO. 4 OF 2006.

A BILL

*further to amend the Bombay Police Act, 1951 and to
validate certain actions taken or things done.*

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Bombay Police (Gujarat Amendment and Validation) Act, 2006.

Short title.

Amendment
of section 2 of
Bom. XXII of
1951.

2. In the Bombay Police Act, 1951(hereinafter referred to as "the principal Act") in section 2, -

(1) in clause (4), the words "and includes a *Lok Rakshak*" shall be and shall be deemed always to have been added at the end;

(2) after clause (6), the following clause shall be and shall be deemed always to have been inserted, namely:-

"(6A) "*Lok Rakshak*" means a police officer of the lowest grade appointed in accordance with the provisions of section 5;"

Validation
of certain
actions
taken.

3. (1) Any action taken or anything done for recruitment to the post of *Lok Rakshak* before the commencement of this Act shall be and shall be deemed always to have been validly taken or done in accordance with law as if the provisions of the principal Act as amended by this Act had been in force at all material times when such action was taken or thing was done and accordingly, no suit or other proceedings shall be maintained or continued in any court in respect of any action taken or anything done for recruitment to the post of *Lok Rakshak*.

(2) For the removal of doubt, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from questioning, in accordance with the provisions of the principal Act as amended by this Act, any action taken or anything done in respect of recruitment to the post of *Lok Rakshak*.

STATEMENT OF OBJECTS AND REASONS

Gujarat being a border State, adequate Police Force is required for the purpose of maintaining law and order in the State. Under the existing provisions of the Bombay Police Act, 1951, the Police Force consists of police officers of several ranks. It has been considered necessary by the Government to strengthen the Police Force by adding a new rank of "*Lok Rakshak*" in the existing Police Force. In order to make the rank of "*Lok Rakshak*" as a part of the Police Force, it is considered necessary to amend the definition of "Constable" and to insert a new definition of "*Lok Rakshak*" in section 2 of the said Act.

Incidentally, a provision in clause 3 is made so as to validate the recruitment process of "*Lok Rakshak*" already commenced.

This Bill seeks to amend the said Act to achieve the aforesaid object.

AMIT SHAH

FINANCIAL MEMORANDUM

Clause 2 of the Bill, if enacted and brought into force, would incur annual recurring expenditure of rupees nine crores from the Consolidated Fund of the State towards the salaries and allowances payable to the *Lok Rakshaks*.

Dated the 18th February, 2006.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,

Secretary to the Government of Gujarat,

Dated the 20th February, 2006.

Legislative and Parliamentary Affairs Department.



सत्यमेव जयते



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, FEBRUARY 20, 2006/PHALGUNA 1, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(to be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT MOTOR SPIRIT CESS (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 5 OF 2006.

A BILL

further to amend the Gujarat Motor Spirit Cess Act, 2001.

It is hereby enacted in the Fifty-seventh Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Motor Spirit Cess (Amendment) Act, 2006 .
(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title and
commencement.

Amendment of
section 2 of
Guj.13 of 2001.

2. In the Gujarat Motor Spirit Cess Act, 2001 (hereinafter referred to as "the principal Act"), in section 2, -

Guj.13 of
2001.

(1) in sub-section (1), -

(a) after clause (b), the following clause shall be inserted, namely :-

"(bb) "importer" means a person who carries on the trade of importing motor spirit into the State of Gujarat;"

(b) after clause (c), the following clauses shall be inserted, namely :-

"(cc) "manufacturer" includes a trader preparing any kind of motor spirit by admixture of one or more kinds of motor spirits with or without other petroleum products or alcohol;

(ccc) "motor spirit" means--

(i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle or vessel or any kind of aircraft; and

(ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid;

but does not include such form of inflammable hydrocarbon materials as the State Government may by notification in the *Official Gazette*, specify in this behalf;"

(c) after clause (e), the following clause shall be inserted, namely :-

"(ee) "sale" means a sale of motor spirit made within the State of Gujarat for cash or deferred payment or other valuable consideration, and includes any supply by a society or club or an association to its members on payment of a price or of fees or subscription, but does not include a mortgage, hypothecation, charge or pledge and the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.— For the purposes of this clause a sale within the State of Gujarat includes a sale determined to be within the State of Gujarat in accordance with the principles specified in sub-section (2) of section 4 of the Central Sales Tax Act, 1956;”;

LXXVI of 1956.

- (d) for clauses (f) and (g), the following clauses shall be substituted, namely :-

“(f) “tax” means tax levied on the sale of motor spirit under the Gujarat Value Added Tax Act, 2003;

(g) “trader” means a person who carries on the trade or business of buying or selling motor spirit and includes -

- (i) a manufacturer,
- (ii) an importer, and
- (iii) a broker or commission agent working in connection with such business; and the word ‘trade’ or ‘trading’ shall be construed accordingly;

(gg) “Tribunal” means the tribunal constituted under section 19 of the Gujarat Value Added Tax Act, 2003 and discharging functions of the Tribunal assigned to it by or under this Act;”;

Guj.1 of 2005.

Guj.1 of 2005.

- (2) sub-section (2) shall be deleted.

3. In the principal Act, in section 6, for the words “twenty-four per cent.”, the words “eighteen per cent.” shall be substituted.

Amendment of section 6 of Guj. 13 of 2001.

- Bom. LXVI of 1958. 4. In the principal Act, in section 8, in sub-section (1), the words and figures “holding a licence under the Bombay Sales of Motor Sprit Taxation Act, 1958” shall be deleted.

Amendment of section 8 of Guj. 13 of 2001.

5. In the principal Act, for section 19, the following section shall be substituted, namely :-

Substitution of section 19 of Guj. 13 of 2001.

- “19. (1) An appeal shall lie to the High Court from every order passed in appeal by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Appeal to High Court.

- (2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

- (3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

- (4) The appeal shall be heard on the question so formulated and the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court, upon hearing of such case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of rupees two hundred.

(7) In respect of such matters not provided in this section, the provisions of Code of Civil Procedure, 1908, which applies to the second appeal to High Court under section 100 of the said Code shall, so far as may be, apply to the appeal under this section."

5 of 1908.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Motor Spirit Cess Act, 2001 provides for levy of cess on the turnover of sales of 'motor spirit' as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958. Since the said Bombay Act of 1958 has been separately proposed for repealing, it is necessary to make consequential amendments in the Gujarat Motor Spirit Cess Act, 2001. Accordingly, new definitions of importer, manufacturer, trader, motor spirit, sale and the tribunal are proposed to be incorporated in section 2 and section 8 have also been proposed to be amended. The rate of interest to be charged under section 6 on delayed payment has been proposed to be reduced from twenty-four per cent. to eighteen per cent. It is also proposed to substitute section 19 so that the aggrieved party can file an appeal directly to the High Court against the decision of the Tribunal.

This Bill seeks to amend sections 2,6,8 and 19 of the Gujarat Motor Spirit Cess Act, 2001 to achieve the aforesaid objects.

SAURABH PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.-- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2.-- The definition of 'motor spirit' proposed to be inserted by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the form of inflammable hydrocarbon materials which does not fall within the definition of the motor spirit.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 20th February, 2006.

SAURABH PATEL

By order and in the name of the Governor of Gujarat.

Gandhinagar,
Dated the 20th February, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

Extra No. 6



सत्यमेव जयते

REGISTERED No. G/GNR/2

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, FEBRUARY 20, 2006/PHALGUNA 21, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TAX ON ENTRY OF SPECIFIED GOODS INTO LOCAL AREAS (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 6 OF 2006.

A BILL

*further to amend the Gujarat Tax on Entry of Specified Goods into Local
Areas Act, 2001.*

It is hereby enacted in the Fifty-seventh Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Tax on Entry of Specified
Goods into Local Areas (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force on such date as the State Government
may, by notification in the *Official Gazette*, appoint.

Ex-V-6-1

6-1

Amendment of
section 2 of
Guj.22 of 2001.

2. In the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 (hereinafter referred to as "the principal Act"), in section 2, for clause (b), the following clause shall be substituted, namely: -

Guj.22
of 2001.

"(b) "Appellate Tribunal" means the tribunal constituted under section 19 of the Gujarat Value Added Tax Act, 2003 and discharging functions of the Appellate Tribunal assigned to it by or under this Act;"

Guj.1 of
2005.

Amendment of
section 3 of
Guj.22 of 2001.

3. In the principal Act, in section 3, in sub-section (1), for the word and figure "column 4", the word and figure "column 3" shall be substituted.

Amendment of
section 4 of
Guj.22 of 2001.

4. In the principal Act, in section 4, for sub-section (3), the following shall be substituted, namely: -

"(3) Where an importer of specified goods liable to pay tax under this Act, being a dealer in the specified goods, becomes liable to pay tax under the Gujarat Value Added Tax Act, 2003 by virtue of the sale of such specified goods, then his liability under the Gujarat Value Added Tax Act, 2003 shall be reduced to the extent of tax paid under this Act."

Guj.1 of
2005.

Amendment of
section 7 of
Guj.22 of 2001.

5. In the principal Act, in section 7, in sub-section (2), for the words "three months", the words "one month" shall be substituted.

Insertion of new
section in
Guj.22 of 2001.

6. In the principal Act, after section 17, the following section shall be inserted, namely: -

Remission of tax,
penalty or
interest.

"17A. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to grant concession in case of double taxation or to redress an inequitable situation, remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any importer or a class of importers.

(2) The Commissioner may, in such circumstances and subject to such conditions and within such limit as may be prescribed, remit the whole or any part of the tax, penalty or interest payable, in respect of any period, by any dealer."

7. In the principal Act, for the existing Schedule, the following Schedule shall be substituted, namely:-

Substitution of
Schedule of
Guj.22 of 2001.

"SCHEDULE

(See sections 2 (k) and 3 (1))

Sr.No.	Specified goods	Maximum rate of tax.
1	2	3
1.	Motor Vehicles including Motor cars, motor taxi-cabs, motoettes, motor omnibuses, motor vans, motor lorries, motor cycles, motorcycle combinations, motor scooters, mopeds, chassis of motor vehicles and the body which is built on chassis of motor vehicles	Twelve and a half per cent.
2.	Cement	Twelve and a half per cent.
3.	Marbles or granite (raw or polished)	Twelve and a half per cent.
4.	Kota stones	Twelve and a half per cent.
5.	Naphtha	Sixteen per cent.
6.	Light diesel oil	Twelve and a half per cent.
7.	High speed diesel oil	Twenty-four per cent."

STATEMENT OF OBJECTS AND REASONS

The Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 provides for levy of tax on the entry of certain goods from outside the State into a local area of the State. Since the Gujarat Sales Tax Act, 1969 has been replaced by the Gujarat Value Added Tax Act, 2003, and therefore, it is necessary to make consequential amendments in the aforesaid Act of 2001. Amendments in sections 2 and 4 are of consequential nature. The period of three months in section 7 proposed to be reduced to one month for furnishing revised return.

Proposed section 17A empowers the State Government and the Commissioner to grant remission of tax, penalty and interest payable under the Act. The revised Schedule provides the maximum rate of tax subject to which the rate of tax can be fixed by the State Government under sub-section (1) of section 3 on the entry of specified goods in the State.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

SAURABH PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill provides for delegation of legislative powers in the following respects :-

Clause 1.-- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 6.-- *sub-clause (2) of this clause empowers the State Government to prescribe by rules, the circumstances, conditions and time limit within which the Commissioner shall remit the whole or any part of tax, penalty or interest.*

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 20th February, 2006.

SAURABH PATEL.

Gandhinagar
Dated the 20th February, 2006

S.S. PARMAR,
Secretary to the Government of Gujarat
Legislative and Parliamentary Affairs
Department



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVI] TUESDAY, FEBRUARY 21, 2006/PHALGUNA 2, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the GUJARAT GOVERNMENT GAZETTE. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 7 OF 2006.

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1, This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2006.

Short title.

Guj.1
of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 1, in sub-section (3), for the words "appoint, and different dates may be appointed for different provisions", the word "appoint" shall be substituted.

Amendment of
section 1 of Guj.1 of
2005.

Amendment of
section 2 of
Guj. 1 of 2005.

3. In the principal Act, in section 2--

(1) for clause (3), the following clause shall be substituted, namely:-

"(3) "appointed day" means the date on which the remaining provisions of this Act shall come into force under sub-section (3) of section 1;"

(2) for clause (5), the following clause shall be substituted, namely:-

"(5) "capital goods" means plant and machinery (other than second hand plant and machinery) meant for use in manufacture of taxable goods and accounted as capital assets in the books of accounts;"

(3) for clause (12), the following clause shall be substituted, namely:—

"(12) "earlier law" means any of the following laws, that is to say:—

Bom.
LXVI of
1958.

(i) the Bombay Sales of Motor Spirit Taxation Act, 1958,

Guj. 1 of
1970.

(ii) the Gujarat Sales Tax Act, 1969, or

Guj. 11 of
1989.

(iii) the Gujarat Purchase Tax on Sugarcane Act, 1989,

as amended from time to time and includes enactments which have validated anything done or omitted to be done under these laws;"

(4) after clause (13), the following clause shall be inserted, namely :-

"(13A) "HSN code " means harmonized system of nomenclature code assigned to the goods specified in the Schedules;"

(5) for clause (36), the following clause shall be substituted, namely :-

"(36) "year" means a financial year;"

Amendment of
section 3 of Guj.
1 of 2005.

4. In the principal Act, in section 3, in sub-section (4), the portion beginning with words "and such further period" and ending with the words "his liability to pay tax shall cease" shall be deleted.

Amendment of
section 5 of
Guj. 1 of 2005.

5. In the principal Act, in section 5,—

(1) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The sales and purchases of the goods specified in Schedule I shall be exempt from tax subject to the conditions and exceptions set out therein against each of them in column 3 of that Schedule.

(1A) The State Government may, by notification in the Official Gazette, add to, or enlarge, any entry in Schedule I, or relax or omit any conditions or exceptions specified therein, and thereupon the said Schedule shall be deemed to be amended accordingly.

(2) (a) Subject to such conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales or purchases or sales or purchases of goods by any specified dealer or specified class of dealers from payment of the whole or any part of the tax payable under the provisions of this Act.

(b) Where the State Government considers it necessary so to do in the public interest to continue tax exemption granted to the sales or purchases of goods by industrial units under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969, it may, by notification in the *Official Gazette*, continue such exemption with such modification, subject to such conditions and for such period, as may be prescribed.";

Guj. 1 of
1970.

(2) in sub-section (3), for the words, brackets and figure "under sub-section (2)", the words, brackets, figures and letter "under sub-section (1A) and sub-section (2)" shall be substituted.

6. In the principal Act, in section 7,—

Amendment of
section 7 of
Guj. 1 of 2005.

(1) in sub-section (1),—

(a) for the word and figure "Schedule II", the words and figures "Schedule II or Schedule III" shall be substituted;

(b) for the words "in the said Schedule", the words and figures "in the said Schedule II or, as the case may be, Schedule III" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in Schedule II or Schedule III in respect of any entry (or part thereof) in the said Schedule II or III and may, by like notification, omit or amend any entry (or part thereof) in the said Schedule II or III but not so as to enhance the rate of tax in any case and thereupon the Schedule I, II or III shall be deemed to have been amended accordingly."

7. In the principal Act, after section 7, the following section shall inserted; namely :-

Insertion of new
section 7A in
Guj. 1 of 2005.

Power to assign

HSN code to

"7A. For the purpose of proper identification of the goods, the State Government may by rules, assign the HSN code to each of the goods specified in the Schedules and different codes may be assigned to different goods covered under the same entry in the Schedules."

Amendment of
section 8 of Guj.
1 of 2005.

8. In the principal Act, in section 8, in sub-section (2), in the proviso to clause (b), for para (b), the following para shall be substituted, namely:—
“(b) If the relevant event as described in sub-section (1) has occurred subsequent to such period as may be prescribed, from the date of such sales made by the dealer.”

Amendment of
section 9 of
Guj. 1 of 2005.

9. In the principal Act, in section 9,—
(1) in sub-section (1), for the word and figure “Schedule II”, the words and figures “Schedule II or Schedule III” shall be substituted;
(2) in sub-section (3), for the words and figure “in Schedule II of this Act or at the applicable rate of tax under the earlier law whichever is higher”, the words and figures “in Schedule II or Schedule III or at the applicable rate of tax under the earlier law, as the case may be” shall be substituted.

Amendment of
section 11 of
Guj. 1 of 2005.

10. In the principal Act, in section 11, -

- (1) in sub-section (1), in clause (a),—

- (a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

“(i) tax collected from the purchasing dealer by a registered dealer from whom he has purchased such goods or the tax payable by the purchasing dealer to a registered dealer who has sold such goods to him during the tax period, or”;

- (b) in sub-clause (ii), for the word and figure “section 9”, the words and figure “section 9, or” shall be substituted;

- (c) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) tax paid by the purchasing dealer under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.”;

- (2) in sub-section (3),—

- (a) in clause (a), after sub-clause (vi), the following sub-clause shall be inserted, namely :-

“(vii) use as capital goods meant for use in manufacturer of taxable goods intended for (i) to (vi) above subject to the condition that such capital goods are purchased after the appointed day.”;

Guj. 22 of
2001.

- (b) in clause (b), after sub-clause (ii), the following sub-clause shall be inserted, namely :-
"(iii) of fuel used for the manufacture of goods.";
- (3) in sub-section (5),-
- (a) after clause (d), the following clause shall be inserted, namely :-
"(dd) made prior to the date of registration;"
- (b) in clause (f), for the words "of the goods", the words and brackets "of the goods (not being taxable goods dispatched outside the State in the course of branch transfer or consignment)" shall be substituted;
- (c) in clause (h), after the word and figure "Schedule I", the words, brackets and figures "or the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5" shall be added;
- (d) for clause (i), the following clause shall be substituted, namely:—
"(i) of capital goods used in the manufacture of goods specified in Schedule I or the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in generation of electrical energy including captive power;"
- (e) in clause (k), for the word "property", the words "of the property" shall be substituted;
- (f) after the clause (l), the following clause shall be inserted, namely:—
"(ll) of petrol, high speed diesel, crude oil and lignite unless such purchase is intended for resale;"
- (g) after clause (m), the following clauses shall be inserted, namely.—
"(mm) of capital goods used in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract;
(mmm) of the goods for which right to use is transferred for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations;
(mmmm) made from a dealer after the name of such dealer has been published under sub-section (11) of section 27 or section 97;"
- (h) after clause (n), the following clause shall be inserted, namely:—
"(nn) of the goods purchased during the period when the permission granted under clause (a) of sub-section (1) of section 14 has remained valid under clause (b) of that sub-section;"

(i) in clause (p), after the word "invoice", the words "or duplicate thereof duly authenticated in accordance with the rules made in this behalf" shall be inserted;

(4) sub-section (8) shall be renumbered as clause (a) of that sub-section and after clause (a) as so numbered, the following clause shall be inserted, namely:—

"(b) Where the capital goods referred to in sub-clause (vii) of clause (a) of sub-section (3) are not used continuously for a full period of five years in the State, the amount of tax credit shall be reduced proportionately having regard to the period falling short of the period of five years.";

(5) for the existing Explanation, the following shall be substituted, namely:—

"*Explanation.*—For the purposes of this section, amount of tax credit on any purchase of goods shall be the same as the amount of tax paid or payable under this Act or the amount of tax calculated on the fare market price of their purchase, whichever is lower."

Amendment of
section 12 of
Guj.1 of 2005.

11. In the principal Act, in section 12,—

(1) in sub-section (1),—

(a) for the portion beginning with the words "a statement of" and ending with the words, figures and letters "held in stock on the 31st March, 2003", the words, figures and letters "a statement of such taxable goods under this Act held in stock on the 31st March, 2006 which are purchased during the period commencing on the 1st April, 2005 and ending on 31st March, 2006" shall be substituted,

(b) in the Explanation, for the figures, letters and word "31st March, 2003", the figures, letters and word "31st March, 2006" shall be substituted;

(2) in sub-section (4),—

(a) in clause (c), for the figures, letters and word "31st March, 2003", the figures, letters and word "31st March, 2006" shall be substituted,

(b) clause (e) shall be deleted;

Amendment of
section 14 of
Guj.1 of 2005.

12. In the principal Act, in section 14,—

(1) in sub-section (1),—

(a) in clause (a),—

(i) for the portion beginning with the words "who is not engaged" and ending with the words "twenty-five lakhs", the words "whose total turnover has not exceeded fifty lakhs" shall be substituted;

(ii) the following proviso and explanation shall be added at the end, namely:—

"Provided that the Commissioner shall not grant permission to pay *lump sum* tax under sub-section (1) to a dealer who,—

- (i) sells the goods in the course of inter-State trade and commerce or exports goods out of the territory of India,
- (ii) purchases the goods in the course of inter-State trade and commerce or imports goods from a place out of the territory of India,
- (iii) dispatches the goods to his branch or his consigning agent outside the State or receives the goods from his branch situate outside the State or from consigning agent outside the State,
- (iv) engaged in the activity of the manufacture other than such activity as State Government may, by order in writing specify,
- (v) effects the sales or purchases through the commission agent,
- (vi) effects the sales falling under sub-clause (b) or (d) of clause (23) of section 2, or
- (vii) purchases goods from or sells goods to, the dealer who has been granted permission to pay *lump sum* tax under this section."

Explanation.—For the purpose of permission under this clause, for the year commencing on the 1st April, 2006 and ending on the 31st March, 2007, the total turnover shall be calculated with reference to the Gujarat Sales Tax Act, 1969."

Guj. 1 of 1970.

(b) for clause (b), the following clause shall be substituted, namely:—

"(b) The permission granted under clause (a) shall remain valid so long as the total turnover of the registered dealer does not exceed rupees fifty lakhs or the registered dealer does not undertake any of the activities mentioned in clauses (i) to (vii) of the proviso to clause (a). In case, where total turnover of a registered dealer exceeds rupees fifty lakhs or the registered dealer undertakes any of the aforesaid activities during the course of the year, he shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed for this purpose."

(2) for sub-section (4) and the Explanation thereunder, the following sub-section shall be substituted, namely:—

"(4) A dealer who is permitted under sub-section (1) to pay *lump sum* tax shall be liable to pay purchase tax leviable under sub-sections (1) and (3) of section 9, in addition to the *lump sum* tax under this section."

Insertion of new section 14A in Guj. 1 of 2005.

13. In the principal Act, after section 14, the following section shall be inserted, namely :-

Composition of tax on works contract.

"14A. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit every dealer referred to in sub-clause (f) of clause (10) of section 2 to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of any period, a lump sum tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette* having regard to the incidence of tax on the nature of the goods involved in the execution of the total value of the works contract.

(2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

(3) Where any dealer has opted for composition of tax under the earlier law and commenced the work in pursuance of any specified works contract prior to the appointed day and such work is not completed before the appointed day, such dealer shall pay the tax for the remaining work in accordance with the provisions of this Act."

Amendment of section 21 of Guj.1 of 2005.

14. In the principal Act, in section 21, after sub-section (7), the following sub-section shall be inserted, namely:--

"(7A) Where the dealer changes the place of his business situated in the jurisdiction of one authority to a different place falling under the jurisdiction of another authority, such dealer shall apply for cancellation of registration to that authority which has granted the registration and shall simultaneously apply for registration to another authority within whose jurisdiction the changed place of business is situated."

Amendment of section 27 of Guj.1 of 2005.

15. In the principal Act, in section 27,--

(1) in sub-section (1), after clause (e), the following clause shall be inserted, namely :-

"(ee) a dealer changes his place of business situated within the jurisdiction of one authority to a different place falling under the jurisdiction of another authority.

Explanation.-- For the purpose of this clause, the 'authority' means the authority prescribed under sub-section (3) of section 21;";

(2) in sub-section (5),—

(a) in clause (a), the words "within the time prescribed" shall be deleted;

(b) in clause (b), the words "with a view to evade tax" shall be added at the end;

(c) in clause (c), for the words "to pay tax due", the words "to pay the tax due for three consecutive tax periods" shall be substituted;

(d) clause (f) shall be deleted;

(e) in clause (h), the word "or" shall be deleted;

(f) in clause (i), the word "or" shall be added at the end;

(g) after clause (i), the following clause shall be inserted, namely:—

(j) who has been found evading tax on account of variation in physical stock compared with his regular books of accounts;"

(3) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) (1) If a dealer,—

(a) has failed to inform changes as required under sub-section (1) of section 26;

(b) has failed to furnish return under section 29;

(c) has failed to pay tax under section 30;

(d) has failed to file declaration or intimate the changes as required under section 65 or 66; or

(e) has failed to produce the books of accounts required under section 67,

the Commissioner may, at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, suspend his certificate of registration from such date not earlier than the date of order of suspension, as may be specified by him in the order.

(2) Where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in sub-section (1), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.

(3) The dealer whose certificate of registration is suspended under sub-section (1) shall not be entitled to claim input tax credit during the period of suspension of registration.";

- (4) in sub-section (7),—
 - (a) for the word "cancellation", the words "suspension or cancellation" shall be substituted;
 - (b) for the word "cancelled", the words "suspended or cancelled" shall be substituted;
- (5) in sub-section (10), for the word "cancellation", occurring at two places the words "suspension or cancellation" shall be substituted;
- (6) in sub-section (11), for the word "cancelled", the words "suspended or cancelled" shall be substituted;
- (7) for the marginal note, the following marginal note shall be substituted, namely,—

"Suspension or cancellation of registration."

Amendment of
section 29 of
Guj.1 of 2005.

16. In the principal Act, in section 29, --

- (1) in sub-section (1), after the words "complete returns", the words "of the goods in respect of his business and the transactions thereof" shall be inserted;
- (2) in sub-section (4), for the words "three months next following", the words "one month from" shall be substituted;
- (3) in sub-section (5),--
 - (a) for the words, "any other dealer", the words, brackets and figure "any other dealer, not being a dealer referred to in sub-section (4)," shall be substituted;
 - (b) for the words, brackets and figures "sub-section (1)", the words, brackets and figures "sub-section (1) or, as the case may be, sub-section (2)" shall be substituted;
 - (c) for the words "any offence", the words "any offence or any other proceedings" shall be substituted.

Amendment of
section 30 of
Guj.1 of 2005.

17. In the principal Act, in section 30, after sub-section (5), the following sub-section shall be added, namely :--

"(6) Where a dealer is liable to pay interest under sub-section (5) or under sub-section (7) of section 42 and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax."

Amendment of
section 33 of
Guj.1 of 2005.

18. In the principal Act, in section 33, for sub-section (3), the following sub-section shall be substituted, namely :-

"(3) Where,--

- (a) a dealer has furnished all the returns, revised returns, if any, and annual returns by the date prescribed therefor and paid the amount of tax due according to such returns, and
- (b) the Commissioner is satisfied that the returns or, as the case may be, revised returns and annual returns furnished by such dealer are correct and complete, and

(c) a notice for audit assessment under sub-section (2) of section 34 has not been served on such dealer within such period as may be prescribed,

such dealer shall be deemed to have been assessed for that year:

Provided that the Commissioner of his own motion within a period of three years from the end of the year in respect of which or part of which the tax is assessable, may call for and examine the record of such dealer who has been deemed to have been assessed and after serving notice and giving the dealer an opportunity of being heard, pass such order thereon in accordance with the provisions of section 34, as the Commissioner may think just and proper.”.

19. In the principal Act, in section 34,—

(1) sub-section (2) shall be renumbered as clause (a) of that sub-section;

(a) in clause (a) as so renumbered, clauses (a) and (b) shall be renumbered as sub-clauses (i) and (ii) respectively;

(b) after clause (a) as so renumbered, the following clause shall be inserted, namely:—

“(b) in respect of such class of dealers as the State Government may, by rules, specify;”;

(2) in sub-section (7), for the words "twice the amount", the words "one and a half times of the amount" shall be substituted.

Amendment of section 34 of Guj.1 of 2005.

20. In the principal Act, after section 34, the following section shall be inserted, namely :—

Insertion of new section 34A in Guj.1 of 2005.

Assessment on basis of fair market price.

“34A. Notwithstanding anything contained in this Act, if the Commissioner is of the opinion that any transaction by any dealer during any tax period or a set of transactions by the dealer has been accounted in a manner so as to pay tax less than the tax otherwise payable on such sale or purchase, then the Commissioner shall calculate the tax liability as per fair market price of such transaction or transactions.

Explanation.—For the purpose of this section, “fair market price” means the value at which goods of like kind are sold or would be sold in the open market in the State.”.

21. In the principal Act, in section 37, in sub-section (2), for the words "a Bank", the word "such" shall be substituted.

Amendment of section 37 of Guj.1 of 2005.

22. In the principal Act, in section 38,—

(1) in sub-section (1), for the words "to the date of order of assessment", the words "till the date of payment of amount of such refund" shall be substituted;

(2) in sub-section (2),—

Amendment of section 38 of Guj. 1 of 2005.

- (a) for the words "for the period commencing after thirty days from the date of such order", the words "per annum on the amount of such refund from the date immediately following the date of closer of the accounting year to which the said amount of refund relates" shall be substituted;
- (b) the proviso and the Explanations thereunder shall be deleted.

Insertion of new
Chapter VIA in
Guj. 1 of 2005.

23. In the principal Act, after Chapter VI, the following Chapter shall be inserted, namely :-

"CHAPTER VIA

DEDUCTION AT SOURCE.

Definitions.

59A. For the purposes of this Chapter, unless the context otherwise requires,--

- (a) "contractor" or "sub-contractor" means the dealer referred to in sub-clause (f) of clause (10) of section 2;
- (b) "specified sale" means the sale referred to in sub-clause (b) of clause (23) of section 2;
- (c) "specified sale price" in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour charges for such execution and the price paid or payable for the goods purchased in the course of inter-state trade or commerce or in the course of import of goods into the territory of India for the use in execution of such works contract; and
- (d) "specified works contract" means a works contract, the specified sale price of which exceed one crore rupees.

Deduction at
source in certain
cases.

59B. (1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales shall be payable at source in accordance with the provisions of this section.

(2) Nothing in sub-section (1) shall prejudice the levy of tax on the specified sales under section 7.

(3) (a) Any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from

such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(b) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or part of the work undertaken by the contractor in respect of a specified works contract, shall at the time of payment of the whole or part of the specified sale price deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(c) The contractor, or as the case may be, sub-contractor shall furnish the prescribed statement to the person or, as the case may be, the contractor responsible for paying specified sale price and thereupon such person or contractor shall deduct the amount referred to in clause (a) or (b) on the basis of such statement.

(4) If a person has entered into works contract with a contractor and the contractor has entered into a contract with a sub-contractor entrusting to the sub-contractor the carrying out of the whole or part of the work (hereinafter referred to as "the sub-contract") relating to the said works contract and the contractor has at the time of payment of the specified sale price in respect of the said sub-contract to the sub-contractor deducted an amount as a tax under clause (b) of sub-section (3) and has paid the same under sub-section (7); then notwithstanding anything contained in clause (a) of the said sub-section (3), the person shall not at the time of payment of the specified sale price to the contractor deduct an amount under clause (a) of sub-section (3) equal to the amount of tax paid by the contractor under sub-section (7).

(5) (a) Where the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall make an application to the Commissioner in this behalf.

(b) On receipt of the application under clause (a), if the Commissioner is satisfied that the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall give a certificate to that effect in such form as may be prescribed.

(c) Where any such certificate is given under clause (b), the person responsible for paying any specified sale price under clause (a) or clause (b) of sub-section (3) shall not deduct any amount as tax in respect of the specified works contract mentioned in the certificate.

(6) Any amount deducted as tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract.

(7) Any person deducting the amount as tax in accordance with the provisions of sub-section (3) shall --

(a) pay such amount into Government treasury in such manner and within such period as may be prescribed,

(b) obtain a treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor within thirty days from the date on which he obtains the receipt.

(8) Every person deducting the amount as tax in accordance with the provisions of sub-section (3) shall, at the time of payment of the whole or part of the specified sale price, furnish to the contractor or, as the case may be, the sub-contractor a certificate specifying the amount so deducted and such other particulars as may be prescribed.

(9) Any deduction made in accordance with the provisions of sub-section (3) and paid into the Government treasury under sub-section (7) shall be treated as a payment of tax or, as the case may be, of lump sum by way of composition under section 14A on behalf of the contractor or, as the case may be, the sub-contractor, and, on the production of a certificate furnished to him under sub-section (8) alongwith a copy of a treasury receipt given to him under sub-section (7), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for the relevant year or, as the case may be, in the payment of lump sum.

(10) Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

(11) Where any amount deducted under sub-section (3) remains unpaid after expiry of the time specified in sub-section (7), such amount shall be recoverable as an arrear of land revenue and the Commercial Tax Authorities shall, for the purpose of effecting recovery of the amount, exercise the powers conferred on them under section 46.

(12) If any person does not deduct an amount under sub-section (3) or after deducting the amount under that sub-section, fails to pay the same into the Government treasury under sub-section (7), within the time specified therein, the Commissioner may, after giving an opportunity of being heard to such person, impose, by way of penalty, a sum not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3).

(13) Where a person deducting the amount of tax in accordance with the provisions of sub-section (3) does not pay the amount so deducted into the Government treasury under sub-section (7) within the time specified therein, there shall be paid by such person, in addition to the

penalty imposed on him under sub-section (12), for the period commencing on the date of expiry of the time specified in sub-section (7) and ending on the date of payment of the amount into the Government treasury, simple interest at the rate of eighteen per cent. per annum on the amount of tax not so paid into Government treasury or any less amount thereof remaining unpaid during such period.

(14) Every person deducting tax under this section shall furnish or cause to be furnished returns in such form and within such period as may be prescribed, to the Commercial Tax Officer within whose jurisdiction the person resides or carries on his business.

(15) Notwithstanding anything contained in this section, tax shall not be deducted at source where payment is to be made by the State Government in case of the specified works contract of the State Government, at the time of payment of all or part of the specified sale price.”.

24. In the principal Act, in section 60,—

Amendment of
section 60 of
Guj.1 of 2005.

- (1) in sub-section (1), for the words “ shall, at the request of purchaser, provide to him”, the words “shall provide him” shall be substituted;
- (2) after sub-section (2), the following sub-section shall be added, namely:—
 - “(3) if any registered dealer contravenes the provisions of sub-section (1) or (2), the Commissioner may, after giving him an opportunity of being heard, direct him to pay by way of penalty a sum not exceeding ten per cent. of the amount of the transaction of sale in respect of which such contravention has been made.”.

25. In the principal Act, in section 61,—

Amendment of
section 61 of Guj. 1
of 2005.

- (1) in clause (a), for the words “the purchaser with a credit note within three months”, the words “within such period as may be prescribed, the purchaser with a credit note” shall be substituted;
- (2) for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that not more than one credit note or, as a case may be, debit note shall be issued for the amount in excess.”.

26. In the principal Act, after section 62, the following section shall be inserted, namely:-

Insertion of new
section 62A in
Guj. 1 of 2005.

Automation.

“62A. (1) The State Government may, by notification in the *Official Gazette*, provide that the provisions contained in the Information Technology Act, 2000 and the rules made thereunder and directions given under that Act, including the provisions relating to

digital signatures, electronic governance, attribution acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may as far as feasible, apply to the procedures under this Act.

(2) Where any notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then the said notice or communication shall not be required to be personally signed by any officer or person and the said notice or communication shall not be deemed to be invalid merely on the ground that it is not personally signed by any such officer.”.

Amendment of
section 63 of
Guj.1 of 2005.

27. In the principal Act, in section 63, in sub-section (1),—

(1) for the words “dealer exceeds rupees one crore”, the words “dealer exceeds such amount, not being less than one crore, as may be prescribed ” shall be substituted,

(2) for the words “within one year”, the words “within six months” shall be substituted.

Amendment of section
66 of Guj.1 of 2005.

28. In the principal Act, section 66 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) If the dealer fails to intimate to the authority the changes in the particulars in the declaration referred to sub-section (1), the Commissioner may, after giving an opportunity of being heard to such dealer, by order in writing, impose a penalty of a sum not exceeding rupees ten thousand.”.

29. In the principal Act, after section 66, the following section shall be inserted, namely:—

Insertion of new
sections 66A in
Guj.1 of 2005.

Furnishing of
specimen
signature.

“66A. (1) Every registered dealer who is liable to pay tax under this Act shall furnish the specimen signature of himself or the person authorised to sign the cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* and any form prescribed or appended to the notification, within such period as may be prescribed.

(2) Any change in the particulars submitted under sub-section (1) shall be intimated to the registering authority within fifteen days of such change.

(3) If a registered dealer fails to submit particulars or intimate the change as required under this section, the Commissioner may, by order in writing and after giving opportunity of being heard to such dealer, impose by way of penalty a sum not exceeding the amount of tax payable on the

transaction declared in the concerned cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* or any form prescribed or appended to the notification.

(4) Where the signature appearing on any of the documents referred to in this section is not matching with the specimen signature furnished by the dealer under this section, such document shall not be considered as a valid document for the purposes of this Act or rules made thereunder."

30. In the principal Act, for section 67, the following section shall be substituted, namely :-

Substitution
of section 67
of Guj.1 of
2005.

Production and
inspection of accounts
and documents and
search of premises.

"67. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information relating to stocks of goods of, or to sales, purchases and deliveries of goods by the dealer or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stocks of goods of or to sales, purchases and deliveries of goods by, any dealer and all goods kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identifications thereon, as appear to him necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts or other documents produced before him in any proceeding under this Act.

(4) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for a prosecution.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reasons to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to, any proceeding under this Act, or for a prosecution.

(6) Where—

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicles, vessel or place; and

(b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded,

the Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant.

(7) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to a search made under sub-sections (5) and (6)".

2 of
1974.

Amendment of
section 68 of
Guj.1 of 2005.

31. In the principal Act, in section 68,—

(1) sub-section (4) shall be renumbered as clause (a) of that sub-section, and—

(a) in clause (a) as so renumbered,—

(i) in sub-clause (iii), the word "or" shall be added at the end;

(ii) after sub-clause (iii), the following sub-clause shall be added, namely:—

"(iv) the signature appearing in any of the documents referred to in clause (a) of sub-section (3) does not match with the signature furnished by the registered dealer under section 66A,";

(b) after clause (a), the following clause shall be inserted, namely:—

"(b) if the driver or other person in charge of a vehicle, boat or animal carrying goods does not make a declaration or if he makes a declaration, he does not keep a copy thereof with him as required by clause (c) of sub-section (3),";

(c) for the words "and vehicle", the words "and detain the vehicle" shall be substituted;

(d) the words "or vehicles" shall be deleted;

(2) in sub-section (5),--

(a) in clause (a), the words "or vehicles" shall be deleted;

(b) in clause (b), for the words "goods, vehicle", the words "goods" shall be substituted;

(3) after sub-section (6), the following sub-section shall be added, namely:—

"(7) where the person from whose possession or control the goods are seized under sub-section (4) fails to establish the ownership of the goods so seized or the payment of tax, interest or penalty is not made or security is not furnished, the Commissioner

may direct that the goods so seized may be sold by public auction and sale proceeds thereof shall be deposited in the Government treasury."

32. In the principal Act, in section 69, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment
of section 69
of Guj. 1 of
2005.

"(1A) The driver or the person in-charge of such vehicle, boat or animal fails to carry with him such transit pass throughout the State, he shall be liable to pay such penalty not exceeding one and one-half times the amount of tax of goods carried by him, as may be determined, after giving a reasonable opportunity of being heard."

33. In the principal Act, after section 70, the following section shall be inserted, namely:—

Insertion of
new section
70A in Guj. 1
of 2005.

"70A. (1) The Commissioner may, for the purpose of this Act, by an order in writing. -

Furnishing of
information by
others.

(a) require any person including an officer of a Bank, Post Office or such other institution, to furnish information in relation to such matters which in his opinion is likely to be useful or relevant in proceedings under this Act;

(b) require any person,--

(i) who has custody of goods of a dealer for the purpose of delivery or transports, to furnish information in respect of such goods, or to permit inspection thereof,

(ii) who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer, to produce such books of accounts, registers, or documents for inspection.

(2) Where a person who is required to furnish information or permit inspection of goods or to produce books of accounts, registers or documents for inspection under clause (a) or (b) of sub-section (1), fails to furnish information or to permit inspection or to produce books of accounts, registers or documents, the Commissioner may after giving the person an opportunity of being heard, make an order of detention or seizure of the goods or, as the case may be, the books of accounts, registers or documents.

(3) The order of detention or seizure made under sub-section (2) shall remain in force so long as the person concerned does not furnish information or permit inspection or, as the case may be, produce books of accounts, registers, or documents for inspection.

(4) Where for any reason it is not feasible to make an order of detention or seizure under sub-section (2), the Commissioner may by an order direct the owner or the person who is in possession or control of the goods or the books of accounts, registers or documents, not to

remove or part with or otherwise deal with the goods or the documents except with the previous permission of the Commissioner.

(5) Where a person fails to act as required under sub-section (1), the Commissioner may, without prejudice to any other action which is liable to be taken against such person under any other provision of this Act, after giving an opportunity of being heard to such person, impose on him a penalty of a sum not exceeding rupees twenty- five thousand.

(6) The Commissioner may release the goods or documents detained or seized under sub- section (2), if the person concerned pays by way of penalty such sum, not exceeding one and a half times the amount of tax leviable on such goods under this Act, as he may direct.

(7) Where,-

(a) no claim is made by any person in respect of the goods detained or seized under sub-section (2), within a period of one month from the date of such detention or seizure,

(b) the person fails to pay penalty imposed on him under sub-section (5) or to pay a sum as directed under sub-section (6), within the prescribed period,

the Commissioner may, by an order in writing, direct that the goods may be sold by auction:

Provided that if the goods detained or seized are of the perishable nature or subject to speedy or natural decay or if the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be sold by auction as soon as it is practicable after such detention or seizure and an amount realized by sale by auction of the goods shall be remitted in the Government treasury.

(8) The auction of goods under the sub-section (7) shall be made in such manner as may be prescribed.

(9) Any person who is entitled to the proceeds of the sale of goods by auction under the sub-section (7) shall, on application made to the Commissioner, be paid such proceeds of the goods so auctioned after deducting from them the expenses of the sale by auction or other incidental charges and the amount of tax, interest and penalty leviable under this Act."

Amendment of
section 73 of
Guj.1 of 2005.

34. In the principal Act, in section 73, in sub-section (4), for the existing proviso, the following proviso shall be substituted, namely:-

"Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or

(b) on proof of payment of such smaller sum as it may consider reasonable, or

(c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct."

35. In the principal Act, in section 74, for clauses (d) and (e), the following clause shall be substituted, namely:—

Amendment of
section 74 of
Guj. 1 of 2005.

"(d) an order sanctioning prosecution under this Act."

36. In the principal Act, in section 75, in sub-section (1), in clause (a), for the words "within two years from the date of service of notice for revision", the words and figures "within five years from the date of the said order of the officer appointed under section 16 to assist him" shall be substituted.

Amendment of
section 75 of Guj. 1
of 2005.

Bom. XXXVI
of 1959.

Guj. 4 of
2004.

37. In the principal Act, in section 76, for the words and figures "Bombay Court-fees Act, 1959", the words and figures "Gujarat Court-fees Act, 2004" shall be substituted.

Amendment
of section 76
of Guj. 1 of
2005.

38. In the principal Act, for section 78, the following section shall be substituted, namely:—

Substitution of
section 78 of
Guj. 1 of 2005.

Appeal to High
Court.

"78. (1) An appeal shall lie to the High Court from every order passed in appeal by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard on the question so formulated and the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court, upon hearing of such case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of rupees two hundred.

(7) In respect of such matters not provided in this section, the provisions of Code of Civil Procedure, 1908, which applies to the second appeal to High Court under section 100 of the said Code shall, so far as may be, apply to the second appeal under this section."

5 of 1908.

Amendment of
section 80 of
Guj.1 of 2005.

39. In the principal Act, in section 80,—

(1) in sub-sections (1) and (2), for the words "the Commissioner", the words "the Commissioner, Special Commissioner, Additional Commissioner or Joint Commissioner" shall be substituted,

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Commissioner on his own motion may call for and examine the record of any order passed by the Special Commissioner, Additional Commissioner or Joint Commissioner under sub-section (1) and pass such order thereon as he thinks just and proper within two years from the date of service of notice for revision of such order:

Provided that the order passed by the Commissioner under this sub-section shall not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to such order."

Amendment of
section 85 of
Guj.1 of 2005.

40. In the principal Act, in section 85, -

(1) in sub-section (1), for the words "shall not be less than six months but which may extend to three years and with fine of rupees twenty thousand", the following shall be substituted, namely :-

"may extend to six months or with fine not exceeding rupees twenty thousand or with both :

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than rupees ten thousand."

(2) in sub-section (2),--

(a) after clause (e), the following clause shall be inserted, namely :-

"(ee) contravenes the provisions of section 60; or";

(b) for the words "one year and with fine of rupees twenty thousand", the following shall be substituted, namely :--

"six months or with fine not exceeding rupees twenty thousand or with both:

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than ten thousand."

(3) for sub-section (4), the following sub-section shall be substituted, namely:—

“ (4) Whoever aids or abets any person in commission of an offence specified in sub-section (1) or (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine not exceeding rupees twenty thousand or with both.”,

(4) in sub-section (5), for the words “which shall not be less than rupees five hundred”, the words “not exceeding rupees one hundred” shall be substituted.

41. In the principal Act, in section 97, --

Amendment of
section 97 of
Guj.1 of 2005.

(1) in sub-section (1), for the words “he thinks fit”, the words “may be prescribed” shall be substituted;

(2) sub-section (2) and the *Explanation* thereunder shall be deleted.

42. In the principal Act, in section 100, in sub-sections (1) and (2), for the words and figures “Gujarat Sales Tax Act, 1969”, the words and figures “Gujarat Sales Tax Act, 1969, the Bombay Sales of Motor Spirit Taxation Act, 1958” shall be substituted.

Amendment of
section 100 of
Guj. 1 of 2005.

Guj.1 of
1970.

Guj.1 of
1970.

Bom.66 of
1958.

43. In the principal Act, in Schedule I, --

Amendment of
Schedule I of
Guj.1 of 2005.

(1) the entry at serial No.4 shall be deleted;

(2) in the entry at serial No.7, for the words “*kumkum* or *sindur*”, the words “*kumkum*, *sindur* and comb commonly known as *kanska*, *kanski*” shall be substituted;

(3) in the entry at serial No.9, in sub-entry (1), for the word “Bread”, the words “Bread in any form” shall be substituted;

(4) after the entry at serial No.9, the following entry shall be inserted, namely :

1	2	3.
---	---	----

“9A Brooms and broom sticks (unbranded) --”;

(5) in the entry at serial No.12, the condition in column 3 shall be deleted;

(6) the entry at serial No.14 shall be deleted;

(7) entry at serial No.19 shall be deleted;

(8) after the entry at serial No. 21, the following entry shall be inserted, namely :-

LVIII of
1957.

1	2	3
---	---	---

"21 A Fabrics of all types on which additional
excise duty is levied and collected in lieu
of sales tax under the Additional Duties of
Excise (Goods of Special Importance) Act, 1957.";

(9) after entry at serial No.31, the following entry shall be inserted,
namely:-

1	2	3
---	---	---

"31A Handicrafts articles as specified
by the State Government by notification
in the *Official Gazette*. --"

(10) for entry at serial No.32, the following entry shall be
substituted, namely:-

1	2	3
---	---	---

"32 Handlooms, parts and accessories
thereof. --";

(11) in the entry at serial No. 35, for the words "and human blood
plasma", the words "including blood components" shall be substituted;

(12) after the entry at serial No. 36, the following entries shall be
inserted, namely:-

1	2	3
---	---	---

"36A Kerosene stove and spare parts and
accessories thereof --"

36B Khadi garments and goods or made-ups
thereof as may be specified by the State
Government by notification in the
Official Gazette. --"

(13) the entry at serial No.42 shall be deleted;

(14) after the entry at serial No. 50, the following entry shall be inserted, namely:-

1	2	3
	"50A Slates and slate pencils and chalk sticks and chalk lumps	--"

(15) after the entry at serial No. 51, the following entries shall be inserted, namely :--

1	2	3
---	---	---

"51A Sugar of all types on which additional
excise duty is levied and collected in lieu
of sales tax under the Additional Duties of
Excise (Goods of Special Importance)
Act, 1957, --

LVIII of
1957.

51B (i) Threads, twine, string or rope prepared
from coir or jute known as *Bhindi*,
Bhindiwan, ---

(ii) *Varat and Varatdi*.

51C Tobacco of all types on which additional
excise duty is levied and collected in lieu
of sales tax under the Additional Duties of Excise
(Goods of Special importance) Act, 1957. --";

LVIII of
1957.

(16) in the entry at serial No.52, for the words
"Vaccines, Toxids", the word "Toxids" shall be substituted.

44. In the principal Act, in Schedule II, -

Amendment of
Schedule II of
Guj.1 of 2005.

(1) after the entry at serial No. 6, the following entry shall be inserted, namely :-

1	2	3
---	---	---

"6A Biscuits (unbranded) Four paise
in the rupee";

(2) in the entry at serial No.7, for the words "and nuts", the words
"nuts, screws and fastners" shall be substituted;

(3) the entry at serial No.12 shall be deleted;

(4) the entry at serial No. 15 shall be deleted;

(5) for the entry at serial No. 18, the following entry shall be substituted, namely :-

1	2	3
"18	(i) Chemicals of all types excluding those specified in any other entries in this Schedule	Four paise in the rupee";
	(ii) Solvent	

(6) after the entry at serial No.28, the following entry shall be inserted, namely :-

1	2	3
"28A	(i) Drugs, medicines and vaccines including Bulk drugs.	Four paise in the rupee";
	(ii) Medical equipments, devices and implants as may be specified by the State Government by notification in the <i>Official Gazette</i> .	
	(iii) Bandages, dressings, syringes, medicated ointments manufactured or imported into India, stocked, distributed or sold under the licence granted under the Drugs and Cosmetics Act, 1940.	

23 of
1940.

(7) in the entry at serial No. 32, for the words "which are not liable to Additional Excise duties", the words "to which entry 21A in Schedule I does not apply" shall be substituted;

(8) after the entry at serial No.32, the following entries shall be inserted, namely :-

1	2	3
"32A	Ghee	Four paise in the rupee
32B	(i) Granules and resins of plastic including HDPE, LDPE, LLDPE, PVC, PP	Four paise in the rupee";
	(ii) PVC Stabilizer	

(9) after the entry at serial No.34, the following entry shall be inserted, namely :-

1	2	3
"34A	Honey	Four paise in the rupee";.

(10) in the entry at serial No. 41, for the words "Import Licence", the words "Import Licence, Goodwill, Technical know how, export permit or quota, DEPB," shall be substituted;

(11) after the entry at serial No.42, the following entry shall be inserted, namely :-

1	2	3
"42A	Industrial inputs or agricultural inputs as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Four paise in the rupee";

(12) after entry at serial No.45, the following entry shall be inserted, namely :-

1	2	3
"45A	(1) <i>Jari</i> thread and embroidery materials of gold, silver and gilded metal including <i>badla</i> , <i>kasab</i> , <i>champa</i> , <i>gota</i> and <i>fulhappa</i>	Four paise in the rupee";
	(2) <i>Jari</i> materials that is to say <i>badla</i> , <i>kasab</i> , <i>champa</i> , <i>gota</i> and <i>fulhappa</i> not containing gold or silver metal	

(13) after the entry at serial No.46, the following entries shall be inserted, namely :-

1	2	3
"46A	Kerosene sold through the Public Distribution System	Four paise in the rupee
46B	Kerosene	Twenty-five paise in the rupee";

(14) the entry at serial No.47 shall be deleted;

(15) in the entry at serial No.48,-

(a) sub-entry (ii) shall be renumbered as sub-entry (iii) and in the sub-entry (iii) as so renumbered, item (e) shall be deleted;

(b) before sub-entry (iii), the following sub-entry shall be inserted, namely :-

1	2	3
---	---	---

“(ii) Processed fruits, processed vegetables including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice”;

(16) after the entry at serial No.48, the following entry shall be inserted, namely :-

1	2	3
---	---	---

“48A Lignite Twenty paise in the rupee”;

(17) after the entry at serial No.49, the following entries shall be inserted, namely :-

1	2	3
---	---	---

“49A Low Sulphur heavy stock (LSHS) Fifteen paise in the rupee
49B Lubricants Fifteen paise in the rupee”;

(18) after the entry at serial No.51, the following entry shall be inserted, namely :-

1	2	3
---	---	---

“51A Naphtha Sixteen paise in the rupee”;

(19) in the entry at serial No. 56,--

(i) in sub-entry (i), the words “including newsprint” shall be added at the end;

(ii) in sub-entry (ii), -

(a) for the word and figure “entry 6”, the word and figure “entry 8”, shall be substituted ;

(b) the words “Slates and slates pencils and chalk sticks” shall be deleted;

(c) after the words “geometrical instruments”, the words “scientific instruments” shall be inserted ;

(20) after the entry at serial No.58, the following entry shall be inserted, namely :-

1	2	3
"58A	Plant and Machinery	Four paise in the rupee";

(21) in the entry at serial No.61, for the word "spare", the words "components and" shall be substituted;

(22) for the entry at serial No. 65, the following entry shall be substituted, namely :-

1	2	3
"65	(i) Sewing machines	Four paise in the rupee";
	(ii) Needles of all types	

(23) after entry at serial No.67, the following entry shall be inserted, namely :-

1	2	3
"67A	Soap (hand made)	Four paise in the rupee";

(24) in the entry at serial No. 73, after the word "Sugar", the words "of all types to which entry 51A in Schedule I does not apply" shall be added;

(25) after the entry at serial No. 74, the following entries shall be inserted, namely :-

1	2	3
"74A	Sweets and sweetmeats	Four paise in the rupee
74B	Tea in leaf or powder form	Four paise in the rupee";

(26) for entry at serial No.75, the following entry shall be substituted, namely :-

1	2	3
"75	(i) Threads, twines, stings or roaps prepared from any materials or goods or waste thereof other than those specified in entry 51B in Schedule I	Four paise in the rupee";
	(ii) Sewing threads	

(27) after the entry at serial No.76, the following entries shall be inserted, namely :-

1	2	3
"76A.	Tobacco of all types to which entry 51C in Schedule I does not apply	Four paise in the rupee
76B	Tools meant for use by carpenters and blacksmith	Four paise in the rupee
76C	Toys other than electronic toys	Four paise in the rupee";

(28) in the entry at serial No.78, in sub-entry (ii), for the word "Transformer", the word "Transmission" shall be substituted;

(29) in the entry at serial No.79, the words "and parts and accessories thereof" shall be added at the end;

(30) after entry at serial No. 82, the following entry shall be inserted, namely :-

1	2	3
"82A	Weighing scales of all types other than electronic weighing scales	Four paise in the rupee";

"SCHEDULE III

(See sections 7 and 9)

**GOODS, THE SALES OR PURCHASE OF WHICH IS SUBJECT TO
TAX AND THE RATE OF TAX.**

Sr. No. (1)	Description of goods (2)	Rates of Tax (3)
1.	High speed diesel oil	Twenty-four paise in the rupee
2.	Aviation Gasoline (Duty paid)	Thirteen paise in the rupee
3.	Aviation Gasoline (Bonded)	Twenty-six paise in the rupee
4.	Aviation turbine fuel (Duty paid)	Thirty paise in the rupee
5.	Aviation turbine fuel (Bonded)	Thirty-eight paise in the rupee
6.	Any other kind of motor spirit.	Twenty-six paise in the rupee

Explanation.-- For the purpose of this Schedule,--

(a) "motor spirit" means,-

- (i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonable efficient motive power for any form of motor vehicle or vessel of any kind of aircraft; and
- (ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which is either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid but does not include such form of inflammable hydrocarbon materials as the State Government may, by notification in the *Official Gazette*, specify in this behalf;

(b) the rate of tax in column 3 indicates that the tax on goods to which entry relates shall be charged on the basis of sale price of the respective goods."

STATEMENT OF OBJECTS AND REASONS

Subsequent to the passage of the Gujarat Value Added Tax Bill, 2003 in the Legislative Assembly on 26.3.2003, States have evolved a consensus about the basic design of Value Added Tax through series of discussions in the Empowered Committee of States Finance Ministers constituted by the Government of India. In order to bring in Tax uniformity among all the States, it is agreed by all the State Governments to have certain common points of convergence. The Empowered Committee of State Finance Ministers has accordingly published a white paper on State Level Value Added Tax. It is, therefore, considered necessary to amend the Gujarat Value Added Tax Act, 2003 based on discussion in the Empowered Committee and brought out in the white paper as well.

Based upon the experience of implementing the repealed law, certain further amendments have also been proposed with an objective to enhance, the effectiveness in the implementation of the Act.

The following notes on clauses explain the important provisions of the Bill:-

Clause 2.-- This clause seeks to amend section 2 with a view to amend and insert the definitions of the 'appointed day', 'capital goods', 'earlier law', 'HSN code' and the year.

Clause 3.-- This clause seeks to amend section 5 to provide for exemptions to the classes of sales or purchases of goods or dealers as may be notified by the State Government.

Clause 6.-- This clause seeks to amend section 7 so as to empower the State Government to reduce the rate of tax or amend the entry of Schedules II and III.

Clause 7.-- This clause seeks to insert new section 7A so as to empower the State Government to assign HSN code to each of the goods specified in the Schedules.

Clause 8.-- This clause seeks to amend section 8 so as to provide that the reduction in the amount of tax under clause (b) shall not be made subsequent to the prescribed period of the sales made by the dealer.

Clause 10.-- This clause seeks to amend section 11 entitling the registered dealer to claim tax credit of the amount paid as tax under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 and also on the purchases of taxable goods used as capital goods meant for use in manufacture of taxable goods intended for item.(i) to (vi) of clause (a) of sub-section (3). It further provides that tax credit shall not be allowed for purchases of capital goods used in manufacturer of goods specified in Schedule I or used in generation of energy; purchases of capital goods used in transfer of property of goods involved in the execution of a work contracts; purchases of petrol, high speed diesel oil, crude oil, and lignite except for resale; where the right to use is transferred; purchases of goods made during the period the permission granted under section 14 was valid; the purchases made from a dealer whose name has been published under section 27 or section 97 of the Act; the purchases made prior to the date of registration; and where dealer has claimed

tax credit on purchase of capital goods and he has not used such capital goods in the state for a period of five years for manufacture of the goods, such dealer shall reduce his tax credit claimed on the capital goods.

Clause 11.-- This clause seeks to amend section 12. The provisions of law is to be implemented from 1st April, 2006 and therefore the date mentioned in the section requires to be changed from the 1st April, 2003 to 1st April, 2006. It also provides that the purchases made in the last year and held in stock on the 31st March, 2006 would be taken into account for the purposes of claiming tax credit by the dealer. Clause (e) of sub-section (4) proposed to be deleted by this clause with a view to enable the dealer to claim tax credit on the prohibited goods declared as such under the repealed Act, if such goods are shown in the stock on the appointed day.

Clause 12.-- This clause seeks to amend section 14 so as to provide that a dealer whose gross turnover does not exceeds rupees fifty lakhs shall eligible for the benefit of lump sum tax. It also provides that the categories of the dealers referred to in the proviso are not eligible to have option for payment of lump sum tax. Since the dealer selling or purchasing goods in the course of inter State trade is not entitled to opt for composition, the provisions of clause (b) and the explanation to sub-section (4) of section 14 become redundant and therefore proposed to be deleted.

Clause 13.-- This clause seeks to insert new section 14A so as to provide for payment of lump sum tax in lieu of tax payable by the dealer engaged in the business of execution of works contract at the rate that may be fixed by the State Government.

Clause 14.-- This clause seeks to amend section 21 so as to provide that where dealer changes his place of business, he should apply for obtaining fresh registration and simultaneously apply for cancellation of old registration.

Clause 15.-- This clause seeks to amend section 27 so as to empower the Commissioner to suspend and cancel the certificate of registration of a dealer in the circumstances mentioned therein.

Clause 16.-- This clause seek to amend section 29 so as to provide that the dealer shall furnish the revised return within one month from the last date prescribed for furnishing the original return. It also provides that the penalty imposed under sub-section (5) of section 29 shall be without prejudice to any other proceeding under the Act.

Clause 17.-- This clause seeks to amend section 30 in order to provide that if the dealer has paid less amount than the amount of tax, penalty and interest, then the amount so paid by the dealer shall be adjusted first towards interest, then penalty and thereafter towards the amount of tax.

Clause 18.-- This clause seeks to amend section 33 to provide that where the dealer has furnished all the returns within prescribed period and paid the tax accordingly and such returns are correct and complete and the notice under section 34 has not been served on such dealer within prescribed period, then such dealer shall be deemed to have been assessed for that year. This clause also empowers the Commissioner to revise such deemed assessment within a period of three years.

Clause 19.-- This clause seeks to amend section 34 so as to provide that the Commissioner shall issue notice for audit assessment in such cases as may be prescribed by rules.

Clause 20.— This clause seeks to insert new section 34A so as to provide that where the dealer has accounted the transaction of sales or purchase with a view to pay less tax, the tax liability shall be calculated as per fair market price of such transaction.

Clause 22.— This clause seeks to amend section 38 so as to provide that dealer shall be entitled to claim interest on the amount of refund right from the date of closer of the accounting year in which he has paid the tax till the date of actual amount of refund is paid.

Clause 23.— This clause seeks to insert new sections 59A and 59 B. New section 59 A defines certain terms and section 59 B provide that any person paying the specified sale price to a contractor for carrying out the work in pursuance of a specified works contract shall deduct the tax at source at the rate of two paise in a rupee of any such payment and shall deposit such tax in the Government treasury and also provide for other consequential provisions.

Clause 24.— This clause seeks to amend section 60 so as to provides that dealer shall give tax invoice to the purchaser and if he contravenes the provisions, the Commissioner may impose penalty on such dealer not exceeding ten per cent. of the amount involved in the transaction.

Clause 26.— New section 62A proposed to be inserted by this clause provides that on issue of notification by the State Government, the provisions of the Information Technology Act, 2000 and the rules made thereunder shall apply in respect of the procedure under this Act.

Clause 27.— This clause seeks to amend section 63 so as to empower the State Government to prescribe by rules the amount of total turnover of the dealer whose accounts requires to verified and audited by a specified authority. It also reduces the time limit from one year to six months for auditing the accounts.

Clause 28.— This clause seeks to amend section 66 with a view to empower the Commissioner to impose the penalty in a case where the dealer fails to intimate the authority about the changes made in the declaration.

Clause 29.— This clause seeks to insert new section 66A with a view to obtain the specimen signature of a person authorized by the dealer to sign cash memo, tax invoice, etc.

Clause 30.— This clause seeks to substitute section 67 so as to empower the Commissioner to require any dealer to produce books of accounts and other documents. It also gives powers of search and seizure.

Clause 31.— This clause seeks to amend section 68 so as to provide that where the driver or person in-charge of vehicle, boat or animal fails to carry with him the prescribed declaration or where the signature in the documents does not match with the specimen signature furnished by the dealer under section 66A, the officer in-charge of check-post can seize the goods. It also provides that if a person from whom possession of goods is taken, fails to establish the ownership of the goods so seized, the Commissioner may direct that the goods may be sold by public auction and sale proceeds thereof shall be deposited in government treasury.

Clause 32.— This clause seeks to amend section 69 to provide that the driver or person in-charge of vehicle, boat or animal shall carry with him the transit pass through out the State and if he fails to carry with him such transit pass, he shall be liable to penalty.

Clause 33.—This clause seeks to insert new section 70A so as to empower the Commissioner to require any person to furnish the information and to seize the books of accounts and goods and impose the penalty.

Clause 34.— This clause seeks to amend section 73 so as to provide that appeal can be entertained by the appellate authority without payment of tax, penalty or on payment of smaller sum.

Clause 36.—This clause seeks to amend section 75 so as to provide that the revisional powers can be exercised subject to the provisions of section 80.

Clause 38.— This clause seeks to substitute section 78 so as to provide that an aggrieved party can directly file an appeal in the High Court against the decision of the Tribunal on the substantial question of law involved in the matter.

Clause 39.— This clause seeks to amend section 80 so as to empower the Commissioner to revise the order passed under sub-section (1) of that section. It further provides that such order shall not affect the liability of any person with respect to any sale or purchase effected prior to such order.

Clause 40.— This clause seeks to amend section 85 so as to reduce the penalties provided in the Act to the extent specified therein.

Clause 41.— This clause seeks to amend section 97 so as to empower the State Government to prescribe by rules, the manner in which the Commissioner shall publish the names and particulars of the dealers without waiting for the time for filing an appeal or till the disposal of appeal.

Clause 42.— This clause seeks to amend section 100 so as to repeal the Bombay Sales of Motor Spirit Taxation Act, 1958.

Clause 43.— This clause seeks to amend various entries of Schedule I to the extent specified therein.

Clause 44.— This clause seeks to amend various entries of Schedule II to the extent specified therein.

Clause 45.— This clause seeks to add new Schedule III in the Act.

SAURABH PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION.

This Bill involves delegation of legislative powers in the following respects :-

Clause 3.-- Sub-section (2) of section 5 proposed to be substituted by this clause empowers the State Government to exempt, by notification in the *Official Gazette*, any class of sales or purchases or dealers from payment of tax.

Clause 7.-- New section 7A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the HSN code to be assigned to each of the goods specified in the Schedules.

Clause 13.-- Sub-section (1) of new section 14A proposed to be inserted by this clause empowers the State Government to prescribe by rules the circumstances in which and the conditions subject to which the Commissioner may grant permission to pay *lump sum* tax to a dealer who engaged in the business of execution of works contract. It also empowers the State Government to fix, by notification in the *Official Gazette*, the rate of tax payable by such dealer.

Clause 18.-- Sub-section (3) of section 33 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the period within which the notice under section 34 shall be served upon the dealer.

Clause 19.-- Sub-section (2) of section 34 proposed to be amended by this clause empowers the State Government to prescribe by rules, the cases in which detailed scrutiny by the Commissioner is necessary.

Clause 23.--(i) Sub-section (5) of new section 59B proposed to be inserted by this clause empowers the State Government to prescribed by rules, the form

of certificate in respect of non-liability of the contractor on the specified sales involved in any specified works contract;

(ii) Sub-section (7) of new section 59B empowers the State Government to prescribe by rules, the manner in which and the period within which the amount of tax deducted at source shall be deposited into Government treasury;

(iii) Sub-section (8) of new section 59B empowers the State Government to prescribed by rules, the other particulars to be furnished by the person to the contractor while giving certificate specifying the amount of tax deducted at source;

(iv) Sub-section (14) of new section 59B empowers the State Government to prescribed by rules the form of return and the time within which such return shall be furnished to the Commercial tax Officer.

Clause 26.-- Sub-section (1) of new section 62A proposed to be inserted by this clause empowers the State Government to apply, by notification in the *Official Gazette*, the provisions of Information Technology Act, 2000 and the rules made thereunder in respect of the procedures under this Act.

Clause 27.-- Sub-section (1) of section 63 proposed to be amended by this clause empowers the State Government to prescribe by rules the amount of total turnover the dealer whose accounts requires to be verified and audited by a specified authority.

Clause 29.-- Sub-section (1) of new section 66A proposed to be inserted by this clause empowers the State Government to prescribe by rules the period within which the registered dealer shall furnish the specimen signature of the person authorised to sign cash memo, tax invoice etc.

Clause 30.-- Sub-section (1) of section 67 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the conditions subject to which the Commissioner require any person to produce books of accounts or to furnish the information.

Clause 33.-- Sub-section (8) of new section 70A proposed to be inserted by this clause empowers the State Government to prescribe by rules the manner in which the auction of goods shall be made.

Clause 41.-- Sub-section (1) of section 97 proposed to be amended by this clause empowers the State Government to prescribe by rules, the manner in which the Commissioner shall publish or disclose the names of the dealers and other particulars relating to the proceedings under the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st February, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 7th September, 2005.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] THURSDAY, FEBRUARY 23, 2006/PHALGUNA 4, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rule :-

THE GUJARAT KHADI AND VILLAGE INDUSTRIES BILL, 2006.

GUJARAT BILL NO. 8 OF 2006.

A BILL

to provide for the encouragement, organisation, development and regulation of Khadi and Village Industries in the State of Gujarat and to constitute one or more Boards to carry out the said objects.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Khadi and Village Industries Act, 2006. Short title and extent.
- (2) It extends to the whole of the State of Gujarat.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "Board" means the Khadi and Village Industries Board constituted under section 3;
- (b) "Khadi" means any cloth woven on handlooms in India from cotton, silk or woollen yarn, handspun in India or from a mixture of any two or all of such yarns and certified as khadi by the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956;
- (c) "member" means a member of the Board, whether an official or a non-official, and includes the Chairman, the Vice-Chairman and a Member-Secretary of the Board;
- (d) "prescribed" means prescribed by rules;
- (e) "regulations" means regulations made under this Act ;
- (f) "rules" means rules made under this Act ;
- (g) "village industry" means, -

LXI of
1956.

- (i) any industry located in a rural area which produces any goods or renders any service with or without the use of power and in which the fixed capital investment per head of an artisan or a worker does not exceed fifty thousand rupees or such other sum as may, by notification in the *Official Gazette*, be specified from time to time by the State Government:

Provided that any industry specified in the Schedule and located in an area other than a rural area and recognised as a village industry prior to coming into force of this Act shall notwithstanding anything contained in this sub-clause, continue to be a village industry under this Act;

- (ii) any other non-manufacturing unit established for the sole purpose of promoting, maintaining, assisting, servicing (including other units) or managing any village industry;
- (iii) any other industry specified in this behalf by the State Government, by notification in the *Official Gazette*, in consultation with the Board.

Explanation. - For the purpose of this clause, -

- (1) "fixed capital investment" includes investment in plant and machinery and land and building of an industry;

- (2) "rural area" means the area comprised in any village, and includes the area comprised in any town, the population of which does not exceed twenty thousand or such other figure as the State Government may, by notification in the *Official Gazette*, specify from time to time.

CHAPTER II

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF BOARD

3. (1) The State Government may, by notification in the *Official Gazette*, establish a Board for the whole of the State to be called the Gujarat State Khadi and Village Industries Board.

Establishment
and
incorporation
of Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire, hold and dispose of property, both moveable and immoveable and to contract and do all things necessary for the purposes of this Act.

(3) The head quarters of the Board shall be at such place as the State Government may, by notification in the *Official Gazette*, specify.

4. (1) The Board shall consist of non-official members, one from each district of the State, in addition to the official members appointed by the State Government. The non-official members may be chosen from amongst the persons who, in the opinion of the State Government are qualified as having had experience and capacity in matters relating to development of khadi and village industries. One of the members of the Board shall be appointed by the State Government as the Chairman of the Board. The State Government may appoint one of the other members as the Vice-Chairman and shall also appoint one or two of the remaining members as it thinks fit as the Member-secretary or Member-secretaries, as the case may be, of the Board. The Chairman and other members of the Board shall hold office for such period as the State Government may, by general or special order, direct.

Constitution
of Board.

(2) The Chairman or any other member of the Board may at any time resign his office by submitting his resignation to the State Government.

(3) The Chairman and other members shall receive such emoluments as may be prescribed.

(4) The emoluments to the members shall be paid from the fund of the Board.

Disqualification
on of
membership
of Board.

5. A person shall be disqualified for being appointed as, or for being, a member of the Board, if such person,-

- (a) is or is found to be a lunatic or a person of unsound mind and stands so declared by the competent court; or
- (b) is adjudged insolvent; or
- (c) has been convicted of an offence involving moral turpitude; or
- (d) has any financial interest in any subsisting contract made with or in any work being done by the Board, except as a share holder (other than a Director) in a company as defined in section 3 of the Companies Act, 1956:

1 of 1956.

Provided that where he is a shareholder, he shall disclose to the State Government the nature and extent of shares held by him in such a company;

- (e) has any financial interest in any business dealing by the Board with any village industry; or
- (f) being an office bearer of a village industry is held responsible by the Board for any default in payment of its dues by village industry to the Board; or
- (g) holds any office of profit under the Board; or
- (h) has directly or indirectly, by himself or his partner or by a member of his family, any share or interest in any transaction of loan or money borrowed by any village industry from the Board; or
- (i) has directly or indirectly, by himself or his partner or by a member of his family, any share or interest in any work done by the order of the Board; or
- (j) has remained absent from three consecutive meetings of the Board without the leave of the Board.

Term of office
of members.

6. (1) The members of the Board other than *ex-officio* members, shall hold office during the pleasure of the State Government.

(2) The members of the Board other than *ex-officio* member may resign from his office by tendering his resignation in writing to the State Government and such resignation shall take effect from the date of acceptance by the State Government.

7. Whenever any vacancy occurs in the office of a member of the Board other than *ex-officio* member, by reason of death, resignation or otherwise, it

Filling
up of
vacancies.

shall be filled in by the State Government as early as may be practicable after occurrence of such vacancy.

8. (1) The Board shall meet at least once in every three months, at such time and place and shall observe such rules of procedure in regard to the transaction of its business at its meetings (including quorum at such meetings) as may be provided by the regulations.

Meeting
of Board.

(2) All the questions at a meeting of the Board shall be decided by a majority of the members present and voting and, in the event of an equality of votes, the Chairman shall have and exercise a second or casting vote.

9. No act or proceeding of the Board or any of its committee shall be invalidated merely by reason of -

Vacancy
etc. not
to
invalidate
proceeding
of Board or
Committee.

- (a) any vacancy therein, or any defect in the constitution thereof, or
- (b) any disqualification of or any defect in the appointment of a person acting as a member thereof, or
- (c) any irregularity in its procedure not affecting the merits of the case.

10. The Board may associate itself with any person whose assistance or advice is required in performing any of its functions under this Act and such person shall have right to take part in the discussion of the Board for the relevant purpose but shall not have right to vote.

Temporary
association
of person
with Board.

11. (1) The Board may, subject to any rules made in this behalf, constitute one or more committees as it may consider necessary for the purpose of discharging of its functions and duties efficiently, for any work or for a particular khadi and village industry or for any specified local area.

Committees
of Board.

(2) The constitution of any such committee, the powers, duties and functions of the committee and the jurisdiction of the committee shall be such as may be determined by the Board.

12. (1) The State Government shall appoint an officer as it may think fit to be the Executive Officer to manage the affairs of the Board.

Officers
and
employees
of Board.

(2) The powers, functions and duties of the Executive Officer shall be such as may be fixed by the Board with the prior approval of the State Government.

(3) The Board may, subject to any rules as to creation of posts or payment of salaries made in this behalf, appoint such other officers and employees subordinate to the Executive Officer as it may think fit for the efficient performance of its functions.

(4) The officers and employees appointed under sub-section (3) shall be entitled to receive such salaries and allowances and shall be governed by such terms and conditions of service as may be determined by regulations.

(5) The officers and employees of the Board shall perform such functions as may be imposed upon them by general or special order issued by the Executive Officer.

**Power
to make
contracts.**

13. (1) The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

(2) Every contract shall be made on behalf of the Board by the Chairman or an officer authorised by the Board in this behalf and be entered into in such manner as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF BOARD

**Functions
of Board.**

14. (1) It shall be the duty of the Board to encourage, organize, develop and regulate khadi and village industries and perform such functions as the State Government may prescribe from time to time.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall also discharge and perform all or any of the following duties and functions, namely:-

- (a) to start, encourage, assist and carry on khadi and village industries and to carry on trade or business in such industries and in the matters incidental to such trade or business;
- (b) to help the people by providing them with work in their homes and to give loans and other form of monetary help to individuals or societies or institutions on such terms and conditions as may be prescribed;
- (c) to encourage establishment of co-operative societies for khadi and village industries;
- (d) to conduct training centers and to train people thereat with a view to equipping them with the necessary knowledge for starting or carrying on khadi and village industries;

- (e)
 - (i) to manufacture tools and implements required for carrying on khadi and village industries and to manufacture the products of such industries,
 - (ii) to arrange for the supply of raw materials and tools and implements required for the said purpose, and
 - (iii) to sell and to arrange for the sale of the products of the said industries;
- (f) to arrange for publicity and popularizing of finished products of khadi and village industries by opening stores, shops, emporia or exhibitions and to take similar measures for the purpose;
- (g) to endeavour to educate public opinion and to impress upon the people the advantages of patronizing the products of khadi and village industries;
- (h) to seek and obtain advice and guidance of experts in khadi and village industries;
- (i) to undertake and encourage research work in connection with khadi and village industries and to carry on such activities as are incidental and conducive to the objects of this Act; and
- (j) to discharge such other duties and to perform such other functions as the State Government may direct for the purpose of carrying out the objects of this Act.

15. The Board shall, for the purposes of carrying out its functions under this Act, have the following powers, namely:-

General
powers
of Board.

- (a) to acquire and hold such moveable and immoveable property as it deems necessary and to lease, sell or otherwise transfer any such property:

Provided that in the case of immoveable property, the aforesaid powers shall be exercised with the previous sanction of the State Government;

- (b) to incur expenditure and undertake works in any area within its jurisdiction for carrying out the provisions of this Act and for framing and execution of such schemes as may be entrusted to it by the State Government, subject to the provisions of this Act and the rules made thereunder.

CHAPTER IV

PREPARATION AND SUBMISSION OF PROGRAMMES

Preparation and submission of annual programme.

16. (1) The Board shall, once in every year, prepare annual programme of work in such form and at such time of the year as may be prescribed and submit the same to the State Government for approval.

(2) The programme shall contain-

(a) the particulars of the scheme which the Board proposes to execute whether in part or whole during the next year;

(b) the particulars of any work undertaken which the Board proposes to execute during the next year for the purposes of carrying out its functions under this Act; and

(c) such other particulars as may be prescribed.

Sanction of programme.

17. The State Government may approve and sanction the annual programme in whole or with such modifications as it deems fit.

Supplementary programme.

18. The Board may prepare and submit a supplementary programme for sanction of the State Government in such form and before such date as the State Government may prescribe and the provisions of section 17 shall apply to such supplementary programme.

CHAPTER V

FINANCES, ACCOUNTS, AUDIT AND DEBTS

Transfer of property.

19. The State Government may transfer buildings, land or any other property to the Board, whether moveable or immovable; for use and management by the Board on such terms and conditions as the State Government may deem fit for the purposes of this Act.

Funds of Board.

20. (1) The Board shall have its own fund and all receipts of the Board shall be credited thereto, and all payments by the Board shall be made therefrom.

(2) The Board may accept grants, subventions, donations and gifts and receive loans from the Government or a local authority or any body or association, whether incorporated or not, or an individual for all or any of the purposes of this Act.

(3) The Board may spend such sum as it thinks fit for the performance of its functions under this Act and such a sum shall be treated as expenditure payable out of the fund of the Board.

(4) All moneys belonging to the fund of the Board shall be deposited in such manner as the State Government may, by a general or special order, direct.

(5) The accounts of the Board shall be operated by such officers jointly or individually as may be authorised by the Board.

21. All property, fund and other assets of the Board shall be held and applied by it subject to the provisions and for the purposes of this Act.

Application
of fund and
property.

22. The State Government may, from time to time, make such grants, subventions, loans and advances to the Board for the purpose of performance of its functions under this Act, on such terms and conditions as the State Government may determine in each case.

Grants,
subventions
and loans to
Board.

23. The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and the rules made in this behalf and upon such conditions as the State Government may determine, borrow any sum required for the purposes of this Act.

Powers of
Board to
borrow
money.

24. The Board shall prepare its budget for the next financial year in such form and at such time in each financial year, as may be prescribed by the State Government. The budget shall contain a statement showing estimated receipts and expenditure on capital and revenue accounts of the Board according to the programme and the Schedule of the stock and forwarded the same to the State Government.

Budget.

25. (1) The State Government may approve and sanction the budget submitted to it under section 24 with such modifications as it deems proper.

Sanction of
budget.

(2) The Board may re-appropriate such amounts as may be necessary from one scheme to another scheme subject to the conditions that the cost of any scheme as originally sanctioned shall not be exceeded by more than 33 1/3 per cent.

(3) The Board may write off losses up to Rs.5000/- in individual cases and not exceeding Rs. 50,000/- in the aggregate in any financial year in cases falling under any or all of the following categories:-

- (a) loss of irrecoverable value of stores or of public money due to theft, fraud or such other cause;
- (b) loss of irrecoverable advance other than loans; and
- (c) deficiency and depreciation in the value of stores.

Supplementary budget. 26. The Board may prepare and submit a supplementary budget for the sanction of the State Government in such form and before such date as may be prescribed and the provisions of section 25 shall apply to such supplementary budget.

Annual report. 27. (1) The Board shall, prepare once in every year in such form and at such time as may be prescribed, an annual report giving true and complete account of its activities during the previous financial year along with a copy of the annual statement of accounts referred to in section 29 and shall submit the same to the State Government.

(2) The State Government shall, as soon as may be, after receipt of report under sub-section (1), cause the same to be laid before the State Legislature.

Further report, statistics and returns. 28. The Board shall, before such date, at such intervals, and in such manner, as the State Government may from time to time direct, submit to the State Government a report on such matters and such statistics and such returns as the State Government may direct.

Accounts and audit. 29. (1) The Board shall maintain its accounts and prepare the annual statement of accounts shall be prepared in such form and in such manner as may be prescribed.

(2) The accounts of the Board shall be audited by an auditor, duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956, who shall be appointed by the Board after approval from the State Government.

1 of 1956.

CHAPTER VI

MISCELLANEOUS

Power to give directions. 30. (1) The State Government may, if it thinks fit, give directions to the Board for carrying out execution of any of the provisions of the Act and the Board shall be bound by such directions.

(2) Where the Board makes persistent default in complying with or in giving effect to any directions given to it by the State Government under sub-section (1), it shall be lawful for the State Government to dissolve the Board under section 38.

Liabilities of members for loss, waste or misapplication. 31. (1) Every member of the Board or its committee shall be personally liable for the loss, waste, or misapplication of any money or other property of the Board to which he has been party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(2) If after giving the member concerned a reasonable opportunity for showing cause to the contrary, an officer authorised by the State Government is satisfied that the loss, waste or misapplication of any money or other property of the Board is a direct consequence of misconduct or gross

negligence on his part, the officer so authorised shall, by an order in writing, direct such member to pay to the Board before a fixed date, the amount required to be reimbursed to it for such loss, waste or misapplication.

(3) If the amount is not so paid, it shall be recovered as an arrears of land revenue and credited to the fund of the Board.

(4) Any person aggrieved by the decision or action of the officer so authorised may apply to the District Court within one month of the decision or action for redressal of his grievance and that court may, after taking such evidence as it thinks necessary, confirm, modify or remit the payment to the Board.

32. (1) Where, an officer authorised in this behalf by the State Government is of the opinion that any person, who in his capacity as a member, officer, employee or secretary of the Board had, in his custody, any record, money or other property belonging to the Board, is after his retirement, removal or suspension from office, as the case may be, not likely to deliver such record or property or pay such money, the officer may, by a written order, require that the record, property or money so detained, be delivered or paid to the Board forthwith.

Power of
authorized
officer to
recover
record and
money.

(2) If any such person as aforesaid shall not deliver the record or the property or pay the money as directed, the officer so authorised may cause him to be apprehended and may send him with a warrant in such form as may be prescribed to be confined in a civil jail till he delivers the record or property or pays the money :

Provided that no such person shall be so detained in confinement for a period longer than one calendar month.

(3) It shall be lawful for the officer so authorised-

- (a) for recovering any such money to direct that such money be recovered as an arrears of land revenue and on such direction being given, such money shall be recoverable as an arrears of land revenue from such person;
- (b) for recovering any such record or property to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by the Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973.

2 of 1974.

(4) No action under sub-section (1) or (2) shall be taken unless reasonable opportunity has been given to the person concerned to show cause why such action should not be taken against him.

Recovery
of
arrears.

33. Where any sum due to the Board in accordance with the terms of a contract or otherwise or any sum payable in connection therewith, has not been paid, such sum shall, without prejudice to any other remedy provided by law, be recoverable as an arrears of land revenue on a certificate in the prescribed form being issued by the Board to the Collector.

Members
of Board,
officers and
employees
of Board to
be public
servants.

34. The Members of the Board or its Committee and officers and employees of the Board when acting or purporting to the act in pursuance of any of the provisions of this Act, rules or regulations made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection
of action
taken under
this Act.

35. No suit, prosecution or other legal proceedings shall lie against the Board or any member or officer or employee of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules or regulations made thereunder.

Power to
make
rules.

36. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

- (a) The emoluments of Chairman and members of the Board under section 4;
- (b) the manner in which contracts shall be entered into under section 13;
- (c) the functions of the Board under section 14 and terms and conditions for loan and monetary help and such form and such time for submission of annual programme;
- (d) the other particulars of the annual programme under section 16;
- (e) the form in which and the date before which the supplementary programme shall be submitted under section 18;
- (f) the form in which and the date before which the supplementary budget shall be submitted under section 26;
- (g) the manner in which the annual report shall be prepared and forwarded to the State Government under section 27;
- (h) the manner of maintenance of accounts and preparation of annual statement of accounts under section 29;
- (i) any other matter which is or may be prescribed under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescissions or modifications so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

37. (1) The Board may, with the previous approval of the State Government by notification in the *Official Gazette* make regulations consistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

Power to
make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely :-

- (a) the procedure and disposal of its business;
- (b) remuneration, allowances and other conditions of service of officers and servants of the Board;
- (c) functions and duties of the officers and employees of the Board;
- (d) functions of committees and the procedure to be followed by such committees in the discharge of their functions.

(3) All regulations made under this section shall be laid before the State Legislature as soon as may be after they are made, and shall be subject to rescission by the state Legislature or to such modifications as the State Legislature may make during the session in which they are so laid, or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

38. (1) If it appears to the State Government necessary or expedient that the Board should be reconstituted or reorganised in any manner whatsoever or that the Board may be dissolved, the State Government may, after consulting the Board, by an order published in the *Official Gazette*, provide for the reconstitution, reorganisation or dissolution of the Board with effect from such date as may be specified in the order.

Power of
reorganization
and dissolution
of Board.

(2) Any order made under sub-section (1), may, in particular, provide for all or any of the following matters, namely :-

- (a) the dissolution of the Board ;
- (b) the reconstitution or reorganisation, in any manner whatsoever, of the Board including the establishment, where necessary, of new Board ;
- (c) the area in respect of which the reconstituted Board or new Board or amalgamated Board shall function or operate;
- (d) the transfer, in whole or in part, of the assets, rights and liabilities of the Board (including the rights and liabilities under any contract made by it) and the terms and conditions of such transfer;
- (e) the transfer or re-employment of any officer and employees of the Board to, or by, any such transferee and the terms and

conditions of service applicable to such officers and employees after such transfer or re-employment; and

- (f) such incidental consequential and supplementary matters as may be necessary for the reconstitution, reorganisation or dissolution of the Board.

(3) Where an order is made under this section transferring the assets, rights and liabilities of the Board, then, by virtue of that order, such assets, rights and liabilities of the Board shall vest in, and be the asset, rights and liabilities, of the transferee.

(4) Every order made under this section shall be laid before the State Legislature, as soon as may be, after it is made.

Explanation.- For the purpose of this section, mere appointment of additional members in a Board shall not be deemed to be reconstitution or reorganisation of that Board.

Power to
remove
difficulties.

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

Removal
of doubt.

40. For the avoidance of doubt, it is hereby declared that nothing in this Act shall apply to or be deemed to apply to any industry, the control of which by the Union is declared by the Parliament by law to be expedient in the public interest.

Repeal and
savings.

41. (1) The Bombay Khadi and Village Industries Act, 1960, in its application to the State of Gujarat is hereby repealed :

Bom.XIX
of 1960.

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder and subject thereto, anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in exercise of any powers conferred by or under the said Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been

done or taken in exercise of the powers, conferred by or under the Act, as if this Act were in force on the date on which such thing was done or action was taken and all arrears of tax and other amount due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Without prejudice to the provisions contained in sub-section (2) and subject thereto, section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of the said Act as if the said Act had been enacted within the meaning of the said section 7.

Bom. 1
of 1904.

SCHEDULE
(See section 2)

Khadi Industry:

Khadi means any cloth woven on handloom in India, from cotton, silk or woolen yarn hand spun in India or from mixture of any two or all of such yarns.

Village Industries :

Group- I : Mineral Based Industry :

(1) Cottage Pottery Industry (2) Lime Stone, Lime shell and other lime products industry (3) Stone cutting, crushing, carving and engraving for Temples and Buildings (4) Utility articles made out of stone (5) Slate and Slate pencil making (6) Manufacturing of plaster of paris (7) Utensil washing powder (8) Fuel briqueting (9) Jewellery out of Gold, Silver, Stone, Shell and synthetic materials (10) manufacture of *Gulal*, *Rangoli* (11) Manufacture of Bangles (12) Manufacture of paints, pigments, varnishes and distemper (13) Manufacture of Glass Toys (14) Glass Decoration – cutting, designing and polishing (15) Gem cutting.

Group-II : Forest Based Industry :

(16) Handmade Paper (17) Manufacture of *Katha* (18) Manufacture of Gums and Resins (19) Manufacture of Shellac (20) Cottage Match Industry, Manufacture of fire works and *Agarbattis* (21) Bamboo and Cane work (22) Manufacture of paper cups, plates, bags and other paper container (23) Manufacture of exercise book binding, envelope making, register and broom making (25) Collections, processing and packing of forest products (26) Photo framing (27) Manufacture of Jute Products (under fiber industry)

Group-III : Agro Based and Food Industry :

(28) Processing, packing and marketing of cereals, pulses, spices, condiments, *masala* etc. (29) Noodles making (30) power atta *chakki* (31) *Daliya* making (32) Mini rice shelling unit (33) Palmgur making and other palm products industry (34) Manufacture of Cane *Gur* and *Khandsari* (35) Indian sweets making (36) Rasawanti – sugarcane juice catering unit (37) Bee-keeping (38) Fruits and vegetable processing, preservation and canning including pickles (39) *Ghani* oil industry (40) Menthol Oil (41) Other than coir (42) Collection of forest plants and fruits for medicinal purpose (43) Processing of maize and ragi (44) Pith work, manufacture of pith mats and garlands etc. (45) Cashew processing (46) Leaf cup making (47) Milk products making unit (48) Cattle feed, poultry feed making.

Group-IV : Polymer and Chemical Based Industry :

(49) Flaying, curing and tanning of hides and skins and ancillary industries connected with the same and cottage leather industry (50) Cottage soap industry (51) Manufacture of Rubber goods (dipped latex products) (52) Products out of Rexene PVC, etc. (53) Horn and Bone including ivory products (54) Candle, camphor and sealing wax making (55) Manufacture of packing items of plastics (56) Manufacture of *Bindi* (57) Manufacture of mehandi (58) Manufacture of Essential oils (59) Manufacture of shampoos (60) Manufacture of Hair Oil (61) Detergents and washing powder making (non-toxic).

Group-V : Engineering and non conventional Energy :

(62) Carpentry (63) Blacksmith (64) Manufacture of Household aluminum utensils (65) Manufacture and use of manure and methane (*Gobar*) Gas from dung and other waste products (such as flesh of dead animal, night soils etc.) (66) Manufacture of paper pins, clips, safety pins, stove pins etc. (67) Manufacture of decorative bulbs, bottles, glass, etc. (68) Umbrella assembling (69) Solar and wind energy implements (70) Manufacture of Handmade utensils out of Brass (71) Manufacture of handmade utensils out of copper (72) Manufacture of handmade utensils out of Bell metal (73) Other articles made out of Brass, Copper and Bell metal (74) Production of Radios (75) Production of cassette player whether or not fitted with Radio (76) Production of voltage stabilizer (77) Manufacture of electronics clocks and alarm time pieces (78) Carved wood and artistic furniture making (79) Tin smithy (80) Motor winding (81) Wire net making (82) Iron grill making (83) manufacture of Rural transport vehicles such as hand carts, bullock carts, small boats, assembly of bicycles, cycle rickshaw, motorised carts, etc. (84) Manufacture of musical instruments (85) Vermiculture and Waste disposal.

Group-VI : Textile industry (Excluding Khadi) :

(86) Polyvastra which means any cloth woven on handloom in India from yarn handspun in India from a mixture of man made fibre with either cotton, silk or wool or with any two or all of them or from a mixture of man made fibre yarn handspun in India with any two or all of such yarn (87) Manufacture of *Lok Vastra* Cloth (88) Batick works (89) Toys and Doll Making (90) Thread Balls and woolen Balling, *Lachchhi* Making (91) Embroidery (92) Manufacture of surgical bandages (93) Stove wicks.

Group - VII : Service Industry :

(94) Laundry (95) Barber (96) Plumbing (97) Servicing of Electronics wiring and electronics domestic appliances and equipments (98) Repairs of diesel engines, pump sets etc. (99) Tyre vulcanising Unit (100) Agriculture servicing for sprayers, Insecticide, pump sets (101) Hiring of sound system like

Loud speaker, amplifier, mike etc. (102) Battery charging (103) Art Board painting (104) Cycle repair shops (105) Band troupe (106) Motorised local boat (fibre glass) (107) Motor cycle to fly as taxi (108) Musical instruments. (109) Hotel(where wine must not be delivered) (110) Tea Stall (111) Iodised Salt (112) Sprayer Insecticide Pump Set etc. services pertaining to agriculture (113) Local Boats with machine (Fibre glass).

STATEMENT OF OBJECTS AND REASONS

The Bombay Khadi and Village Industries Act, 1960 was applicable in the re-organised Bombay State. The said Act was adopted by the State of Gujarat on its formation on the 1st May, 1960. With a view to carrying out the intention of the Government to have its own law for the State of Gujarat, it is considered necessary to enact the law relating to Khadi and Village Industries in the State by replacing the said Bombay Act.

The following notes on clauses explain the important provisions of the Bill :-

- Clause 1.-* This clause provides for short title and extent of the Act.
- Clause 2.-* This clause defines certain terms used in the Bill.
- Clause 3.-* This clause provides for establishment of the Gujarat State Khadi and Village Industries Board.
- Clause 4.-* This clause provides for the constitution of the Gujarat State Khadi and Village Industries Board and the emoluments for the Chairman and other members.
- Clause 5.-* This clause provides for disqualification of membership of the Board.
- Clause 6.-* This clause provides for the term of office of the member of the Board.
- Clause 7.-* This clause provides for the filling up of vacancies of members occurred in the Board.
- Clause 8.-* This clause provides for the method of meeting of the Board and the decisions to be taken therein.
- Clause 9.-* This clause provides that any vacancy in or defect in the constitution of the Board or its committee or any irregularity shall not invalidate an act or proceedings of the Board.
- Clause 10.-* This clause empowers the Board to take assistance or advice of consultants in performing its functions.
- Clause 11.-* This clause empowers the Board to constitute one or more committees.

Clause 12.- This clause provides for appointment of Chief Executive Officer, other officers and employees of the Board.

Clause 13.- This clause empowers the Board to enter into contract for carrying out any of the purposes of the Act.

Clause 14.- This clause provides for functions to be performed by the Board.

Clause 15.- This clause provides for general powers of the Board.

Clause 16.- This clause provides for the preparation of annual programme of the Board and its submission to the State Government.

Clause 17.- This clause empowers the State Government to sanction such annual programme with modification if required.

Clause 18.- This clause empowers the Board to prepare and submit the supplementary programme to the State Government.

Clause 19.- This clause provides that the State Government may transfer moveable or immoveable property to the Board on such terms and conditions as it may deem fit.

Clause 20.- This clause provides for the funds of the Board and payment to be made therefrom.

Clause 21.- This clause provides for application of the fund and the property of the Board for the purposes of the Act.

Clause 22.- This clause provides that State Government may make grants, subventions, loans and advances to the Board.

Clause 23 :- This clause empowers the Board to borrow money with the previous sanction of the State Government.

Clause 24.- This clause provides for preparation of budget by the Board and its submission to the State Government for approval.

Clause 25.- This clause empowers the State Government to sanction the budget and also empowers the Board to write off losses to the extent specified therein.

Clause 26.- This clause empowers the Board to prepare supplementary budget.

- Clause 27.-* This clause provides that the Board shall prepare annual report and submit the same to the State Government which shall be laid before the State Legislature.
- Clause 28.-* This clause empowers the State Government to direct the Board to submit reports on matters and such statistics and returns as directed by it.
- Clause 29.-* This clause provides for preparation and maintenance of the accounts of the Board. It also provides that such accounts shall be audited by the qualified auditor.
- Clause 30.-* This clause empowers the State Government to give directions to the Board.
- Clause 31.-* This clause provides for liabilities of members of the Board for loss, waste or misapplication of any money or property of the Board to which he has been party or which has been caused by his misconduct or gross negligence as a member of the Board.
- Clause 32.-* This clause empowers the State Government to appoint an officer to recover the records and money from any person in whose custody the record, money or property of the Board is with him and failed to deliver the same to the Board.
- Clause 33.-* This clause provides that any sum due to the Board shall be recoverable as an arrears of land revenue.
- Clause 34.-* This clause provides that members, officers and employees of the Board shall be public servants.
- Clause 35.-* This clause provides for general indemnity to the Board, members, officers or employees of the Board for action taken in good faith.
- Clause 36.-* This clause empowers the State Government to make rules in the matter specified therein.
- Clause 37.-* This clause empowers the Board to make regulations in the matter specified therein.
- Clause 38.-* This clause empowers the State Government to reconstitute, re-organise or dissolve the Board.
- Clause 39.-* This clause provides that nothing in the Act shall apply to any industry the control of which by the Union is declared by Parliament by law to be expedient in the public interest.

Clause 40.- This clause provides for repeal of the Bombay Khadi and Village Industries Act, 1960.

ANIL PATEL

FINANCIAL MEMORANDUM

The Gujarat Khadi and Village Industries Bill, 2006 seeks to replace and repeal the Bombay Khadi and Village Industries Act, 1960.

Clause 12 relates to appointment of officers and employees of the Board. As such administrative setup already exists for carrying into effect, the provisions of the existing Act and the same setup shall continue for the implementation of the proposed Act. This Bill involves no additional financial impact from the point of view of expenditure.

ANIL PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 2.- Sub-clause (g) of this clause empowers the State Government, by notification in the *Official Gazette*, to-

- (i) specify such other sum for the purpose of considering the industry as a village industry under para (i),
- (ii) specify any other industry as a village industry under para (iii), and
- (iii) specify such other figure of population for the purpose of considering the area as rural area under sub-clause (b) of the *Explanation*.

Clause 3.- (i) Sub-clause (1) of this clause empowers the State Government to establish by notification in the *Official Gazette*, the Gujarat State Khadi and Village Industries Board;

- (ii) sub-clause (3) of this clause empowers the State Government to specify by notification in the *Official Gazette*, such place as the head quarters of the Board.

Clause 4.- Sub-clause (3) of this clause empowers the State Government to prescribe emoluments for the Chairman and other members.

Clause 8.- This clause empowers the Board to prescribe by regulations the time and place of the meeting of the Board and such rules of procedure in regard to transaction of its business in the meeting.

Clause 11.- This clause empowers the State Government to make rules subject to which the Board may constitute the Committee.

Clause 12.- Sub-clause (4) of this clause empowers the Board to determine by regulations, the salaries and allowances and the terms and conditions of service of the officers and the employees of the Board.

Clause 13.- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the manner in which the Board may enter into contract and also empowers the Board to authorise an officer for the purpose of entering into contract on behalf of the Board.

Clause 14.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the other functions to be performed by the Board;

- (ii) item (b) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, such terms and conditions for grant of loans and other form of monetary help to individuals, societies or institutions.

Clause 15.- Sub-clause (b) of this clause empowers the State Government to prescribe by rules subject to which the Board may incur expenditure and undertake the work and the scheme.

Clause 16.- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and time at which the annual programme of work shall be prepared and submitted by the Board to the State Government;

- (ii) item (c) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the other particulars of the scheme and the programme.

Clause 18.- This clause empowers the State Government to prescribe by rules, the form in which and the date before which the supplementary programme shall be prepared by the Board.

Clause 20.- Sub-clause (4) of this clause empowers the State Government to direct by order, the manner in which the money belonging to fund of the Board shall be deposited.

Clause 23.- This clause empowers the State Government to prescribe by rules, the conditions subject to which the Board may borrow the money.

Clause 24.- This clause empowers the State Government to prescribe by rules, the date by which and the form in which the Board shall prepare and submit the budget to the State Government.

Clause 26.- This clause empowers the State Government to prescribe by rules, the form in which and the date before which the Board shall prepare and submit the supplementary budget to the State Government.

Clause 27.- This clause empowers the State Government to prescribe by rules, the form in which and the time at which the annual report shall be prepared by the Board.

Clause 29.- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the form in which and the manner in which the accounts shall be prepared and maintained by the Board.

Clause 32.- (i) Sub-clause (1) of this clause empowers the State Government to authorise an officer for the purpose of recovery of

record and money or other property belonging the Board from the person who failed to deliver such record or property to the Board;

- (ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of the warrant for the purpose of sub-clause (1) of this clause.

Clause 33.- This clause empowers the State Government to prescribe by rules, the form in which the certificate shall be issued by the Board to the Collector for recovery of its dues as an arrears of land revenue.

Clause 36.- This clause empowers the State Government to prescribe by rules generally for carrying out of the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).

Clause 37.- This clause empowers the Board to make regulations with the previous approval of the State Government, generally for carrying out the purposes of the Act and particularly for the matters specified in sub-clause (2).

Clause 38.- Sub-clause (1) of this clause empowers the State Government by an order published in the *Official Gazette*, to reconstitute, re-organise or dissolve the Board.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd February, 2006.

ANIL PATEL.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,

Dated the 23rd February, 2006.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII]

THURSDAY FEBRUARY 23, 2006/PHALGUNA 4, 1927

Separate paging is given to this Part in order that it may be filed as a Separate
Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT WAREHOUSES BILL, 2006.

GUJARAT BILL NO. 9 OF 2006.

A BILL

*to provide for the regulation of the Warehousing of certain goods
in the State of Gujarat.*

It is hereby enacted in the Fifty-seventh Year of the Republic of India
as follows:-

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Warehouses Act, 2006.
- (2) It extends to the whole of the State of Gujarat.

Short title
and extent.

Definitions. 2. (1) In this Act, unless the context otherwise requires -

- (a) "co-operative society" means a society registered or deemed to be registered under the provisions of the Gujarat Co-operative Societies Act, 1961 or any corresponding law in force in any part of the State of Gujarat;
- (b) "depositor" means a person who deposits goods with a warehouseman for storing in his warehouse, and includes any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title thereto by endorsement or transfer from the depositor or his lawful transferee;
- (c) "goods" means any of the articles specified in the Schedule appended to this Act;
- (d) "licence" means a licence granted under section 4, or renewed under section 6;
- (e) "person" includes a firm and any company or association or body of individuals, whether incorporated or not;
- (f) "prescribed" means prescribed by rules;
- (g) "prescribed authority" means the authority empowered by the State Government to carry out the duties under this Act;
- (h) "receipt" means a warehouse receipt, issued in the prescribed form, by a warehouseman to a depositor depositing goods in a warehouse;
- (i) "rules" means rules made or deemed to have been made under this Act;
- (j) "warehouse" means any building, structure or other protected enclosure which is used or may be used for the purpose of storing goods on behalf of depositors, but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers and the like;
- (k) "warehouseman" means a person who has obtained a licence under this Act for the purpose of carrying on his business of warehousing.

CHAPTER II

LICENSING OF BUSINESS OF WAREHOUSING

3. Subject to the provisions of section 11, no person shall carry on the business of warehousing, or represent or hold himself out as carrying on the business of warehousing, except under and in accordance with the terms and conditions of a licence granted under this Act.

Prohibition of carrying on business of warehousing without license.

4. (1) A person may make an application to the prescribed authority for the grant of licence for carrying on the business of warehousing.

Application for and grant of licence.

(2) Every application made under sub-section (1) shall be in such form, contain such particulars and accompanied by such fees, as may be prescribed.

(3) On receipt of such application, the prescribed authority may, on payment of the prescribed fee, grant a licence to such person for the conduct of his business of warehousing in accordance with the terms and conditions of the licence, and the provisions of this Act and the rules made thereunder.

5. Before granting a licence, the prescribed authority shall satisfy itself -

Terms and conditions for grant of licence.

- (a) that the warehouses in which it is proposed to store goods are suitable for storing the particular goods, or the class or classes of goods which it is intended to store therein;
- (b) that the applicant is competent to conduct such warehouses;
- (c) that the applicant furnishes to the prescribed authority such security, in such manner, as may be prescribed:

Provided that where the applicant is a corporation established under the Warehousing Corporations Act, 1962, or the National Co-operative Development Corporation Act, 1962, no such security shall be required;

- (d) that the applicant fulfills other conditions which the State Government may, by notification in the *Official Gazette*, specify in this behalf; and
- (e) that there is no other cause or reason for which the applicant may, in the opinion of the prescribed authority, be deemed to be disqualified for a licence.

6. (1) Every licence granted under section 4 shall be valid for such period as may be prescribed.

Duration and renewal of licence granted under section 4.

58 of 1962.
26 of 1962.

(2) A licence may be renewed on an application made by the warehouseman in that behalf to the prescribed authority in such form and accompanied by such fee as may be prescribed.

Notice of refusal
to grant or
renew licence.

7. If the prescribed authority refuses to grant or renew a licence, it shall record its reasons therefor in writing, and communicate a copy of its order to the applicant.

Licence when
to be revoked.

8. Every licence shall be liable to be revoked by the prescribed authority for reasons to be recorded in writing in the order of revocation and in particular, a licence shall be liable to be revoked, if the warehouseman -

- (a) has applied to be adjudicated, or has been adjudicated an insolvent; or
- (b) has parted in whole or in part with his control over the warehouses in respect of which he is licensed; or
- (c) has ceased to conduct such warehouses; or
- (d) has made unreasonable charges for services rendered by him; or
- (e) has in any manner become incompetent to conduct the business of a warehouseman; or
- (f) has contravened any of the terms or conditions of the licence or any of the provisions of this Act or the rules made thereunder, or any other conditions which the State Government has, by notification in the *Official Gazette*, specified under section 5.

Notice to be
given before
revocation of
licence, and
suspension of
licence.

9. (1) Before revoking a licence, the prescribed authority shall give notice to the warehouseman specifying the charges against him and calling upon him to show cause why the licence should not be revoked.

(2) After considering the explanation, if any, offered by the warehouseman, the prescribed authority may revoke the licence, or pass such orders as it deems just and proper.

(3) The prescribed authority may suspend the licence of a warehouseman pending decision on the enquiry referred to in sub-sections (1) and (2).

(4) If a licence is suspended or revoked, the prescribed authority shall make an entry to that effect in the licence.

Appeal and
revision.

10. (1) An appeal against any order of the prescribed authority refusing to grant or renew a licence, or suspending or revoking any licence of a warehouseman shall be made to the Registrar of Co-operative Societies within sixty days from the date of such order.

(2) On receipt of an appeal under sub-section (1), the Registrar shall, after giving the warehouseman and the prescribed authority an opportunity of being heard, pass such order thereon as he thinks fit.

(3) The State Government may at any time call for and examine the record of any proceedings before the prescribed authority or the Registrar relating to the suspension or revocation of, or the refusal to grant or renew, a licence, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed therein, and as to the regularity of such proceedings, and may either annul, reverse, modify or confirm such order, or pass such other order as it may deem just.

(4) Every order passed by the prescribed authority under section 9, subject to appeal or revision as provided in this section, and every order passed by the Registrar in appeal, subject to such revision, and every order passed by the State Government in revision, shall be final and shall not be questioned in any court of law.

11. (1) During the period a licence is suspended, a warehouseman shall not carry on the business of warehousing; and when a licence expires and is not renewed, or is revoked, a warehouseman shall cease to carry on his business of warehousing, and shall return the licence to the prescribed authority.

Return of
licence.

(2) Where a licence expires and is not renewed, or where it is revoked, the prescribed authority shall give to the warehouseman such reasonable time thereafter as it thinks fit to wind up his business, and notwithstanding anything contained in section 3, the warehouseman may carry on his business of warehousing during the said period, and may do all things necessary for winding up such business.

12. Where a licence granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall, on an application made in that behalf by the warehouseman and on payment of the prescribed fee, issue a duplicate thereof.

Duplicate
licence.

CHAPTER III

DUTIES OF A WAREHOUSEMAN

13. Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

Reasonable
care of
goods stored.

14. (1) Every warehouseman shall keep his warehouse clean and free from damp, take all necessary precautions against rats and other pests, and fulfill such other conditions as may be prescribed in this behalf.

Precautions
against
damage or
injury to
goods.

(2) No warehouseman shall accept for deposit in his warehouse, goods which are contaminated or infected by worms and pests, and which are likely to cause damage to other goods which are or which may be deposited in the warehouse.

Preservation
of identity of
goods.

15. In order to permit at all times, the identification of the goods deposited in a warehouse, and easy delivery therefrom, every warehouseman shall keep in his warehouse the goods of one depositor separate from the goods of other depositors, and also the goods of the same depositor separate from his other goods for which a separate receipt has been issued :

Provided that where standardised and graded goods are stored in a warehouse, subject to any agreement between the warehouseman and depositor the same variety of goods belonging to different depositors may be mingled together by the warehouseman, and each depositor will be entitled only to his portion of the goods according to weight or quantity as the case may be, as shown in his receipt.

Goods
deteriorating in
warehouse and
their disposal.

16. (1) Whenever from causes beyond the control of the warehouseman, goods stored in a warehouse deteriorate or are about to deteriorate, the warehouseman shall forthwith give notice thereof to the depositor asking him to take delivery of the goods immediately on surrendering the receipt duly discharged, and on payment of all dues. If the depositor does not comply with the notice within a reasonable time, the warehouseman may cause such goods to be removed from his warehouse, and sold by public auction at the cost and risk of the depositor.

(2) Any person interested in any goods, or the receipt covering such goods, stored in a warehouse may, in writing inform the warehouseman of the fact and the nature of his interest, and the warehouseman shall keep a record thereof. If such person requests in writing that intimation be given to him regarding the condition of the goods and agrees to pay the charges for giving such intimation, the warehouseman shall give him intimation accordingly.

Delivery of
goods.

17. Every warehouseman in the absence of any reasonable or lawful excuse, shall, without unnecessary delay, deliver the goods stored in his warehouse to the depositor on demand made by him and on surrender of the receipt duly discharged, and on payment of all the charges due to the warehouseman. Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods stored in the warehouse.

Warehouseman
not entitled to
excess nor
responsible for
shortage of
goods.

18. (1) If there be any excess in the goods stored in a warehouse by absorption of moisture or on account of other causes, the warehouseman shall not be entitled to the same.

(2) If for any cause beyond the control of the warehouseman, there be any shortage in such goods by damage or other causes, the warehouseman shall not be responsible for the same.

(3) In the event of any dispute arising as to whether such excess or shortage is due to absorption of moisture or driage, or is due to other causes, beyond the control of the warehouseman, the matter shall be referred to the Registrar of Co-operative Societies or any other officer appointed by the State Government in this behalf, and the decision of the Registrar or other officer shall be final.

19. Every warehouseman shall maintain such accounts, books and records, in such form and in such manner, as may be prescribed.

Accounts, books, etc. to be maintained by warehouseman.

20. (1) Every warehouseman shall insure, in such manner as may be prescribed, the goods in his warehouse against loss or damage by fire or burglary. On a written request from a depositor and on his agreeing to pay the requisite charges for additional insurance, the warehouseman may insure such goods also against loss or damage by flood, riot, civil commotion or any other contingency.

Insurance of goods in warehouses.

(2) Every warehouseman shall be entitled to recover from the depositor, at the rate prescribed if the insurance is obligatory, or at the rate agreed to if the insurance is optional, the charges for insurance in respect of the depositor's goods before delivery thereof, and the warehouseman shall have a lien on the said goods in respect of such charges.

21. Every warehouseman shall receive for storage in his warehouse, so far as its capacity permits, any goods of the kind customarily stored by him therein, which may be tendered to him in a suitable condition for storing in the usual manner in the ordinary and usual course of business without making any discrimination between persons desiring to avail themselves of the facilities of his warehouse :

Discrimination prohibited.

Provided that a warehouseman may grant such concessions to a co-operative society as may be prescribed.

22. Notwithstanding anything contained in any law, no warehouseman other than a co-operative society or a corporation established under the Warehousing Corporations Act, 1962, or the National Co-operative Development Corporation Act, 1962, shall, either on his own account or that of others, deal in, or lend money on goods which he receives for storage in his warehouse.

Warehouseman, other than cooperative society, etc. not to lend money against goods in warehouse.

CHAPTER IV

INSPECTION AND GRADING OF GOODS

Inspection.

23. For the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are duly complied with, the prescribed authority may at any time during business hours, inspect or cause to be inspected, or examine or cause to be examined, any warehouse in respect of which a licence is granted, the machinery or equipment thereof, the goods stored therein, and the account, books and records relating thereto.

Licensed weighers, samplers and graders.

24. (1) On an application made to it in the prescribed manner and on payment of the prescribed fee, the prescribed authority may issue licences to persons possessing the prescribed qualifications, entitling them to act as weighers, samplers or graders of any goods deposited or to be deposited in a warehouse, and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined.

(2) The certificates issued by weighers, samplers or graders as to weight, quality or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and depositor.

(3) The prescribed authority may appoint a Board of Arbitrators to decide complaints against weighers, samplers, or graders or warehouseman relating to weight, quality or grade of the goods stored in a warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in any court of law.

Duration and renewal of licence granted under section 24.

25. Every licence granted to a weigher, sampler or grader under section 24 shall be valid for the prescribed period and may, on the expiry of such period be renewed, from time to time, for a further period by the Prescribed Authority on an application made in that behalf and on payment of the prescribed fee.

Suspension or revocation of licence.

26. Subject to rules made in this behalf, every licence granted to a weigher, sampler or grader shall for adequate reasons which shall be recorded in writing, be liable to be suspended or revoked by the prescribed authority. Before revoking a licence the prescribed authority shall communicate to the licensee the grounds on which it is proposed to take action, and shall give him a reasonable opportunity of showing cause against it.

Return of Licences.

27. Whenever a licence granted to a weigher, sampler or graders, expires, or is revoked, he shall return it to the prescribed authority.

Prohibition of unlicensed weighers, samplers and graders.

28. No person who is not licensed under this Chapter shall work as, or hold himself out as, a weigher, sampler or grader.

29. Where a licence granted to a weigher, sampler or grader is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate thereof on an application made in that behalf by the weigher, sampler or grader, as the case may be, and on payment of the prescribed fee.

Duplicate
licence.

30. Every warehouseman shall provide reasonable facilities for weighing, sampling and grading any goods deposited in his warehouse.

Facilities for
weighing,
sampling
and grading.

CHAPTER V

WAREHOUSE RECEIPTS

31. Every warehouseman shall, at the time when goods are received by him for deposit in a warehouse, issue a receipt in the prescribed form, containing full particulars in respect of the goods stored in his warehouse by each depositor.

Issue of
receipt.

32. A receipt issued by a warehouseman shall, unless otherwise specified on the receipt, be transferable by endorsement, and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions on which the person who originally deposited the goods would have been entitled to receive them.

Receipt
transferable by
endorsement.

33. If a receipt issued under section 31 is lost, destroyed, torn, defaced, damaged or otherwise becomes illegible, a warehouseman shall on an application made by the depositor and on payment by him of the prescribed fee, issue a duplicate receipt on such conditions as he may think fit to impose, being conditions made by rules prescribed for the purpose.

Duplicate
receipt.

CHAPTER VI

MISCELLANEOUS

34. (1) If a warehouseman fails to comply with, or contravenes any of the terms or conditions of, his licence or of any provision of this Act, then, without prejudice to any other penalty to which he may be subject, the amount of security deposited by him under a bond executed by him under the provisions of this Act shall be liable to be forfeited, and the amount due under such bond shall be recoverable from him, or from his sureties or their heirs or legal representatives, as an arrears of land revenue.

Security
amount to
be forfeited
and
recovered as
arrears of
land
revenue.

(2) The State Government may make payment out of the amount so forfeited or recovered, to any person who may have sustained loss by reason of the warehouseman failing to comply with, or acting in contravention of, any provision of this Act.

Penalty.

35. (1) Whoever, fails to comply with, or acts in contravention of any provisions of this Act shall be deemed to commit an offence under this Act, and shall on conviction be punished -

- (a) in the case of a contravention of the provisions of section 3 or 22, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both;
- (b) in any other case with fine which may extend to one thousand rupees.

(2) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (2), where an offence under this Act is committed by a company and it is proved that the offence is committed with the consent or connivance or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1. - For the purposes of sub-sections (2) and (3) -

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm means a partner in the firm.

Explanation 2. - The provisions of sub-section (2), in so far as they apply to persons who at the time of the offence were in charge of or were responsible to the company for the conduct of the business thereof, shall not apply to any such persons in charge of or responsible to a corporation established under the Warehousing Corporations Act, 1962, or the National Co-operative Development Corporation Act, 1962.

58 of 1962.

26 of 1962.

No Compensation
for suspension or
cancellation of
licence.

36. Where any licence is suspended or revoked under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof.

37. Every contract or agreement which is inconsistent with the provisions of this Act, or the rules made thereunder, shall, to the extent of such inconsistency, be void.

Contracts and agreements inconsistent with Act to be void.

38. The State Government may delegate to any officer or authority subordinate to it any of the powers conferred on it by or under this Act.

Power of State to delegate its powers

39. The State Government may, by notification in the *Official Gazette*, add to, amend or omit any of the entries in the Schedule.

Power of State Government to amend Schedule.

40. The State Government may, by notification in the *Official Gazette*, exempt any class of warehouses from all or any of the provisions of this Act.

Power of State Government to exempt warehouse.

41. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying into effect the purposes of this Act.

Power to make rules.

(2) In particular, but without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely :-

- (i) the Authority empowered to carry out the duties under this Act;
- (ii) the form of receipt under clause (h) of section 2;
- (iii) the form of application and the fee for taking out a licence under section 4, for its renewal under section 6 and for the issue of duplicate licence under section 12;
- (iv) the terms and conditions of a licence in accordance with which the business of a warehouseman shall be conducted under section 3 and the period for which the licence shall be valid under section 6;
- (v) the amount of security and the manner of furnishing the same (including the form of bond) under clause (c) of section 5;
- (vi) the conditions on or under which a duplicate of a licence may be issued;
- (vii) the conditions (including disinfection of warehouses and the goods stored therein) which a warehouseman shall fulfill under sub-section (1) of section 14;
- (viii) the books, accounts and records to be kept and maintained under section 19;

- (ix) the manner in which goods deposited in a warehouse shall be insured under sub-section (1) of section 20;
- (x) the rates at which charges for insurance shall be recoverable under sub-section (2) of section 20;
- (xi) the concessions which may be granted by a warehouseman to a co-operative society under section 21;
- (xii) the qualifications of, and grant of licences to weighers, samplers and graders, the form of application for licences, the fee payable in respect of them, and the period for which the licences may be granted to them, the form of certificates to be issued by them, the renewal of their licences, the conditions on which duplicate licences may be issued, and the conditions under which the licences may be suspended or revoked for the purposes of sections 24, 25, 26 and 29;
- (xiii) the form for the issue of a receipt under section 31 and the fee to be paid for the issue of a duplicate receipt and the conditions under which the duplicate receipt may be issued under section 33;
- (xiv) the publication of the grant, suspension and revocation of licences and the list of warehouseman and their warehouses;
- (xv) the charges to be made by a warehouseman for storing goods in his warehouses;
- (xvi) the manner of giving notices under this Act;
- (xvii) the manner of conducting a public auction for the sale of goods deteriorating or which are about to deteriorate in a warehouse and accounting for the proceeds of such sale by a warehouseman;
- (xviii) the classification of goods stored by a warehouseman;
- (xix) the standard weights, measures and gradation of goods, to be used in a warehouse;
- (xx) the procedure to be followed in proceedings before the Board of Arbitrators and the mode of executing their awards;
- (xxi) generally for the efficient conduct of the business of a warehouseman;
- (xxii) any other matter which is to be, or may be, prescribed.

(3) In making rules under this section, the State Government may provide that any person failing to comply with or contravening the provisions of any rules shall, on conviction, be punished with fine which may extend to one hundred rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

(6) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Bom V of
1960.

42. (1) On the commencement of this Act, the Bombay Warehouses Act, 1959 in its application to the State of Gujarat shall stand repealed.

Repeal
and
savings.

(2) Notwithstanding such repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

I of 1944.
52 of 1962.

43. Nothing in this Act shall apply to a warehouse appointed or licensed under the Central Excise and Salt Act, 1944 or the Customs Act, 1962 or any law corresponding thereto or to a warehouse belonging to or appointed by the Trustees of the Port of Gujarat.

Act not to
apply to
warehouses
under
Customs Act,
1962, etc.

SCHEDULE**[See section 2(c)]**

1. Fibres --
 - (1) Cotton (ginned and unginned).
 - (2) Raw Jute.
2. Food-stuffs including edible oils.
3. Oil-seeds.
4. Tobacco.
5. Gul.
6. Vegetable oils.
7. Cattle-fodder including oil-cakes and other concentrates.
8. Seeds.
9. Manures..
10. Fertilizers.
11. Agricultural implements.

STATEMENT OF OBJECTS AND REASONS

The Bombay Warehouses Act, 1959 was applicable in the reorganised Bombay State. The said Act was adopted by and extended to the State of Gujarat on its formation. With a view to carrying out the intention of the Government to have its own law for the State of Gujarat, it is considered necessary to enact the Gujarat Warehouses Act, 2006, by replacing the Bombay Warehouses Act, 1959 in its application to the State of Gujarat.

This bill seeks to achieve the aforesaid object.

The following notes on clauses explains, in brief, the important provisions of the Bill.

Clause 1.- This clause provides for short title and extent of the Act.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for the prohibition of carrying on business of warehousing without licence granted under this Act.

Clauses 4 to 12.- These clauses provides for making application for the grant of licence, conditions for grant of licence, terms and renewal of it, licence when to be revoked and procedure for revocation, appeals and revision, duplicate licence etc.

Clauses 13 to 22.- Under these clauses duties of a Warehouseman (i.e. a person who has obtained a licence under this Act for the purpose of carrying on business of warehousing) are prescribed.

Clauses 23 to 30.- These clauses provides for Inspection and Grading of Goods.

Clauses 31 to 33.- These clauses are related with issue of Warehouse Receipt in prescribed form for goods deposited in a warehouse, about making endorsement to show its transferability and issuing duplicate receipt to a depositor.

Clause 34.- This clause provides for when security amount to be forfeited and recovered as arrears of land revenue.

Clause 35.- This clause provides for penalties which can be imposed for failure to comply with or acting in contravention of any provision of this Act.

Clause 41.- This clause provides for the powers of State Government to make rules for carrying into effect the purposes of this Act.

Clause 42.- This clause provides for repeal and savings, on the coming into force of this Act.

Clause 43.- This clause provides for this Act not to apply to warehouses under Customs Act, 1962, etc.

BHUPENDRASINH CHUDASAMA

FINANCIAL MEMORANDUM

The Bombay Warehouses Act, 1959 was adopted by and extended to the State of Gujarat on its formation. Now, Government has considered to enact the Gujarat Warehouses Act, 2006 by replacing the Bombay Warehouses Act, 1959. Therefore, the existing staff of the Department will perform the functions to carry out the objects of the Act. There would not be any financial liability on State exchequer on this count. Therefore, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

BHUPENDRASINH CHUDASAMA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect :-

Clause 4.-- Sub-clause (2) of this clause empowers the State Government to prescribe by rules, the form of application for licence, the fee to be paid and the authority to which the application is to be made for grant of licence.

Clause 5.-- (i) Sub-clause (c) of this clause empowers the State Government to prescribe by rules, the security to be furnished and the manner in which the security is to be furnished to the Prescribed Authority;

- (ii) sub-clause (d) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the other conditions for grant of a licence.

Clause 6.-- This clause empowers the State Government to prescribe by rules, the period for which the licence shall be valid and the fees to be paid for the renewal of the licence.

Clause 12.-- This clause empowers the State Government to prescribe by rules, the fee for issuance of a duplicate licence to a warehouseman.

Clause 14.-- This clause empowers the State Government to prescribe by rules, the other conditions to be fulfilled by the warehouseman for keeping the warehouse clean and free from damp.

Clause 19.-- This clause empowers the State Government to prescribe by rules, the form and the manner in which accounts, books and records shall be maintained.

Clause 20.-- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the goods in warehouse shall be insured against loss or damage by fire or burglary.

Clause 21.-- Proviso to this clause empowers the State Government to prescribe by rules, the concessions which may be granted by warehouseman to the co-operative society.

Clause 24.-- Clause (1) of this clause empowers the State Government to prescribe by rules, the qualifications for a person to possess a licence entitling to act as weighers, samplers and graders of any goods, fees to be paid for licence and the manner in which and authority to whom the application shall be made by them for grant of licence.

Clause 25.-- This clause empowers the State Government to prescribe by rules, the validity period of the licence issued under clause 24 and the fees to be paid for renewal of licence by the prescribed authority.

Clause 26.-- This clause empowers the State Government to prescribe by rules, the manner in which licence shall be suspended or revoked.

Clause 29.-- This clause empowers the State Government to prescribe by rules, the fees to be paid for issuance of a duplicate licence to a person to act as weigher, sampler or grader.

Clause 31.-- This clause empowers the State Government to prescribe by rules, the form of receipt containing full particulars of goods received for the storage which shall be issued by the warehouseman.

Clause 33.-- This clause empowers the State Government to prescribe by rules, the fee and such other conditions for issuance of a duplicate receipt.

Clause 39.- This clause empowers the State Government to add to, amend or omit any of the entries in the Schedule by notification in the *Official Gazette*.

Clause 40.- This clause empowers the State Government to exempt any class of warehouses from all or any of the provisions of this Act by notification in the *Official Gazette*.

Clause 41.- Sub-clause (1) of this clause empowers the State Government to make rules for carrying into effect the purposes of this Act, by notification in the *Official Gazette*, while sub-clause (2) provide for the matters for which rules may be prescribed.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd February, 2006. **BHUPENDRASINH CHUDASAMA.**

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,

Secretary to the Government of Gujarat,

Dated the 23rd February, 2006.

Legislative and Parliamentary

Affairs Department.



The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVIII]

MONDAY, FEBRUARY 27, 2006/PHALGUNA 8, 1927

Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT EDUCATIONAL INSTITUTIONS SERVICES TRIBUNAL BILL, 2006.

GUJARAT BILL NO. 10 OF 2006.

A BILL

to consolidate and amend the laws relating to Educational Tribunals so as to bring about uniformity therein and to provide for the constitution of a tribunal for the purpose of determining disputes relating to conditions of service of the members of the teaching and non-teaching staff of the educational institutions in the State and for the matters connected therewith.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Educational Institutions Services Tribunal Act, 2006.

Short title, extent
and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "appointed day" means the date on which the remaining provisions of this Act come into force under sub-section (3) of section 1;
- (b) "college" means a college affiliated to a University;
- (c) "educational institution" means a University, College, Higher Secondary School, Secondary School and the Primary School;
- (d) "employee" means the any member of the teaching and non-teaching staff of the educational institution (whether confirmed or temporary or on probation) in service of such institution and for the purpose of any proceeding under this Act in relation to a dispute referred to in section 10, includes any such member who has been dismissed or removed or whose services are otherwise terminated;
- (e) "existing tribunal" means the tribunal established or constituted under the relevant Act;
- (f) "member" means a member of the tribunal and includes the President;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "Primary School" shall have the same meaning assigned to it in the Bombay Primary Education Act, 1947;
- (i) "relevant Act" means the Bombay Primary Education Act, 1947, the Gujarat Secondary and Higher Secondary Education Act, 1972, the Gujarat Affiliated Colleges Services Tribunal Act, 1982, the Gujarat Higher Secondary School Services Tribunal Act, 1983 or, as the case may be, the Gujarat Universities Services Tribunal Act, 1983;
- (j) "repealed law" means the Acts repealed by this Act;
- (k) "Secondary School" and "Higher Secondary School" shall have the same meaning assigned to them in the Gujarat Secondary and Higher Secondary Education Act, 1972;
- (l) "tribunal" means the Gujarat Educational Institutions Services Tribunal established under section 3;

Bom. LXI of 1947.

Bom. LXI of 1947.
Guj. 18 of 1973.
Guj. 9 of 1982.
Guj. 12 of 1983.
Guj. 1 of 1988.

Guj. 18 of 1973.

Bom. I of 1949.
Baroda Act No.
XVII of 1949.
Bom. XL of 1955.
Guj. 38 of 1965.
Guj. 39 of 1965.
Guj. 26 of 1978.
Guj. 22 of 1986.
Guj. 5 of 2003.

- (m) "University" means a University constituted under the Gujarat University Act, 1949, the Maharaja Sayajirao University of Baroda Act, 1949, the Sardar Patel University Act, 1955, the Vir Narmad South Gujarat University Act, 1965, the Saurashtra University Act, 1965, the Bhavnagar University Act, 1978, the Hemchandracharya North Gujarat University Act, 1986 or, as the case may be, the Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003.

ESTABLISHMENT OF TRIBUNAL AND ITS JURISDICTION, POWERS AND FUNCTIONS

3. (1) There shall be established, by the State Government by a notification in *Official Gazette*, the tribunal to be called the 'Gujarat Educational Institutions Services Tribunal'.
- (2) The Tribunal shall consist of the President and such number of other members as may be appointed by the State Government.
4. (1) No person shall be qualified for appointment as a member of the Tribunal unless he -
- (a) is or has been a District Judge for at least three years; or
- (b) is or has been a Secretary to the Government of Gujarat for at least three years.
- (2) Where a District Judge has been appointed as a member of the Tribunal, the senior most District Judge shall be the President of the Tribunal.
5. (1) The member shall hold office for a term of five years from the date on which he enters upon his office and may be eligible for reappointment for another term of five years:
- Provided that no member shall hold office as such after he has attained the age of sixty-five years.
- (2) A member may, by notice in writing under his hand address to the State Government, resign his office and such resignation shall take effect from the date it is accepted by the State Government.
- (3) The salaries and allowances payable to, and other terms and conditions of service of member shall be such as may be prescribed.
6. (1) If any vacancy occurs by reason of the death, resignation, expiry of term of appointment or termination of appointment of the member or for any

Constitution of
the Gujarat
Educational
Institutions
Services
Tribunal.

Appointment
and
qualifications of
member.

Term of office
and conditions
of service of
member of
Tribunal.

Filling up of
vacancies.

other cause whatsoever, such vacancy shall be filled in by the State Government as soon as practicable, by appointment of duly qualified person.

(2) If any member becomes by reason of illness or other infirmity, temporarily incapable for performing the duties of his office, the State Government may appoint some other duly qualified person to discharge his duties for any period not exceeding six months at a time.

Power of State Government to terminate the appointment of member.

7. The State Government may terminate the appointment of any member before the expiry of the term of his office, if he-

- (i) has been adjudged an insolvent,
- (ii) engages during his term of office in any paid employment outside the duties of his office,
- (iii) has in the opinion of the State Government, become physically or mentally incapable of acting as a member,
- (iv) has been convicted of an offence involving moral turpitude, or
- (v) has been guilty of proved misbehaviour:

Provided that no member shall be removed from his office on the ground of proved misbehaviour unless he has been given a reasonable opportunity of being heard in respect of such charge.

Headquarters of Tribunal.

8. The headquarters of the tribunal shall be at such place as the State Government may, by order published in the *Official Gazette*, determine.

Jurisdiction of Tribunal.

9. The tribunal shall have the jurisdiction to entertain and decide an appeal preferred under section 11, an application made under section 12 and the cases transferred to it under section 23.

Practice and procedure of Tribunal.

10. (1) All the questions which come before the tribunal shall be decided by the majority and if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred to the President for hearing on such points by one or more of the other members of the tribunal and such point or points shall be decided according to the majority of the members of the tribunal who have heard the case including those who first heard it.

(2) The tribunal may, with the previous sanction of the State Government make regulations consistent with the provisions of this Act and rules made thereunder for regulating its procedure (including the place of its sittings, the formation of its benches and the award of cost) for the purpose of effective discharge of its functions and disposal of its business:

Provided that until such regulations are made under this sub-section, the tribunal may adopt the regulations made by any of the existing tribunal functioning prior to commencement of this Act.

11. (1) An employee aggrieved by an original order or appellate order or decision of the educational institution which is connected with the conditions of service of such employee, or as the case may be, the educational institution, may, within a period of sixty days from the date of such order or decision, appeal to the tribunal.

Appeal.

(2) Notwithstanding anything contained in sub-section (1), the tribunal may entertain an appeal made to it after the expiry of the period of ninety days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

12. (1) If at any stage in any proceeding before the tribunal, it appears to the tribunal that the proceedings raise a question, as to the interpretation of a law, which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the tribunal shall issue notice to the State Government and the Government may, if it thinks fit, appear and the tribunal shall then hear the State Government before deciding the question.

State Government to be heard in certain cases.

(2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceeding before the tribunal is of such a nature and of such public importance that it is expedient that the State Government be heard before decision of the question, it may apply to the tribunal in such proceedings to be heard, and the tribunal shall not decide the question without hearing the State Government.

13. The tribunal may of its own motion or on the application made by the employee or the educational institution aggrieved by any decision or order of the tribunal within sixty days from the date of communication of such decision or order, review such decision or order on any of the following grounds, namely :-

Review.

- (a) that some new or important matter or evidence which could not be discovered earlier after the exercise of due diligence and which was likely to materially affect the decision or order of the tribunal, was discovered after such decision or order; or
- (b) that there was some mistake of facts or error apparent on the face of the record; or
- (c) that the decision or order required to be reviewed for any other sufficient reason :

Provided that the tribunal shall not allow any review petition and set-aside its previous order or decision without hearing the parties affected:

Provided further that no such review shall be made after the expiry of a period of two years from the date of decision or order concerned.

Tribunal to have powers of Court.

14. For the purpose of exercising its jurisdiction under this Act, the tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

V of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) issuing commissions for the examination of witnesses;
- (d) any other matter which may be prescribed.

Proceedings before Tribunal to be judicial proceedings.

15. All proceedings before the tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

Members of Tribunal to be public servants.

16. All members of the tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Decision of Tribunal final.

17. Every decision of the tribunal passed under this Act shall be final and conclusive and shall not be called in question before any civil court.

Payment of court fees.

18. Notwithstanding anything contained in the Gujarat Court-fees Act, 2004, every appeal or application made to the tribunal shall be accompanied by such fees as may be prescribed. Guj. 4 of 2004.

Records to be open to inspection and extracts and copies to be given

19. Subject to such rules and the payment of such fees as the State Government may from time to time prescribe in this behalf, the records of the tribunal shall be open to the inspection of the public at reasonable hours, and certified extracts from the same or the certified copies thereof shall be given to any person applying for the same.

Protection of action taken in good faith.

20. No suit, prosecution or other legal proceeding shall lie against the State Government, President, members or staff of the tribunal or any other person, for anything which is in good faith done or intended to be done in pursuance of this Act or rules, regulations or orders made thereunder.

Power to make rules.

21. (1) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that the circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(2) All rules made under this section shall be laid, for not less than thirty days, before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

22. (1) On the appointed day, all the existing tribunals established or constituted under the relevant Act shall stand abolished. Abolition of existing Tribunals.

(2) All the persons appointed as a tribunal under the relevant Act shall cease to hold office as such on the appointed day and shall be deemed to have vacated their office and they shall not be entitled to claim any compensation for such cessation of post.

23. All the applications, appeals and other proceedings pending before the existing tribunals immediately before the appointed day shall stand transferred to the tribunal on the appointed day and all such applications, appeals and proceedings shall be continued and disposed of by the tribunal as if they were filed before it under this Act. Transfer of pending cases.

24. The Acts specified in column (1) of the Schedule are hereby amended in the manner and to the extent specified against it in column (2) thereof with effect on and from the date on which the tribunal is constituted under section 3. Amendment of certain Acts.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State legislature.

Repeal and
savings.

26. (1) On the appointed day, the Gujarat Affiliated Colleges Services Tribunal Act, 1982, the Gujarat Higher Secondary Schools Services Tribunal Act, 1983 and the Gujarat Universities Services Tribunal Act, 1983 shall stand repealed.

Guj. 9 of 1982.
Guj. 12 of 1983.
Guj. 1 of 1988.

(2) Notwithstanding such repeal, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal law as if it had been an enactment within the meaning of the said section 7.

Bom. I of 1904.

SCHEDULE

(See section 24)

Title of the Act (1)	Extent and manner of amendment (2)
1. The Bombay Primary Education Act, 1947 (Bom. LXI of 1947).	Clause (c) of the Explanation to section 40B, sub-section (5) of section 40B and sections 40F and 40G shall be deleted.
2. The Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973).	(1) In section 2, clause (y) shall be deleted; (2) in section 36, after the words "Private Secondary School" wherever they occur, the words "or registered Private Higher Secondary School" shall be inserted; (3) sections 38, 39 and 40 shall be deleted.
3. The Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003 (Guj. 5 of 2003).	Section 69 shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The disputes relating to conditions of service of the members of the teaching and non-teaching staff of recognized primary schools, secondary schools, higher secondary schools, affiliated colleges and Universities in the State are being decided by the various tribunals constituted under the different laws.

In order to bring about uniformity and to consolidate laws relating to the educational tribunals, it is considered necessary to enact the law to provide for the constitution of a tribunal for the purpose of determining disputes relating to conditions of services of the members of the teaching and non-teaching staff of the educational institutions in the State and for matters connected therewith.

This Bill seeks to achieve the aforesaid objects.

The following notes on the clauses explain, in brief, the important provisions of the Bill:--

Clause 1.-This clause provides for short title, extent and commencement of the Act.

Clause 2.- This clause defines important terms used in the Bill.

Clause 3.- This clause empowers the State Government to establish the tribunal and to appoint the President and the members of the tribunal.

Clause 4.- This clause provides for appointment and the qualifications of the members of the tribunal.

Clause 5.- This clause provides for term of office and other conditions of service of members of the tribunal.

Clause 6.- This clause empowers the State Government to fill up the vacancies occurs in the tribunal by reason of death, resignation, etc.

Clause 7.- This clause empowers the State Government to terminate the appointment of the members of the Tribunal on the grounds specified therein.

Clause 8.- This clause empowers the State Government to determine by order, the head quarters of the tribunal.

Clause 9.- This clause provides for the jurisdiction of the tribunal.

Clause 10.- This clause provides for practice and procedure of the tribunal.

Clause 11.- This clause provide that an employee of the educational institute may file an appeal to the tribunal within ninety days from the date of an order or the decision. It also empowers the tribunal to condone the delay in filing an appeal.

Clause 12.- This clause provides that the tribunal shall hear the State Government in any proceeding wherein the interpretation of law of public importance is arisen.

Clause 13.- This clause empowers the tribunal to review its order or decision on the grounds specified therein but no such review shall be made after the period of two years from the date of decision or the order.

Clause 14.- This clause provides that the tribunal shall have the same powers as are vested in the civil court in respect of the matters specified therein.

Clause 15.- This clause provides that the proceedings before the tribunal shall be judicial proceedings.

Clause 16.- This clause provides that the members of the tribunal shall be public servant.

Clause 17.- This clause provides that every decision of tribunal shall be final and shall not be called in question before any civil court.

Clause 18.- This clause provides that every appeal or application made to the Tribunal shall be accompanied by the fees as may be prescribed by the rules.

Clause 19.- This clause provides that the record of the tribunal shall be open for the inspection of the public and certified copies of extracts may be supplied to the applicant on payment of the prescribed fee.

Clause 20.- This clause provides for general immunity .

Clause 21.- This clause empowers the State Government to make rules for carrying out the purposes of the Act.

Clause 22.- This clause provides that all the existing tribunals constituted under the relevant Acts shall stands abolished on the commencement of this Act and all the persons appointed as a tribunal shall cease to hold office.

Clause 23.- This clause provides that all appeals and other proceedings pending before the existing tribunals shall stand transferred to the tribunal established under this Act.

Clause 24.- This clause provides for the amendments in the Acts specified in the Schedule.

Clause 25.- This clause empowers the State Government to remove any difficulty arising in giving effect to the provision of the Act by publishing an order in the *Official Gazette*.

Clause 26.- This clause provides for repeal and savings of certain Acts mentioned therein.

ANANDIBEN PATEL

FINANCIAL MEMORANDUM

The Gujarat Educational Institutions Services Tribunal Bill, 2006 seeks to replace certain laws relating to educational tribunals. The administrative set up already exists for carrying into effect the provisions of the existing Acts and the tribunals already established shall continue for the implementation of the provisions of the present Bill and as such, if the same is enacted and brought into force, it would not involve any additional expenditure from the Consolidated Fund of the State.

ANANDIBEN PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

- Clause 1.-** Sub-clause (3) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the remaining provisions of the Act shall come into force.
- Clause 3.-** Sub-clause (1) of this clause empowers the State Government to establish, by notification in the *Official Gazette*, the 'Gujarat Educational Institutions Services Tribunal'.
- Clause 5.-** Sub-clause (3) of this clause empowers the State Government to prescribe by rules, the salaries and allowances and other terms and conditions of service of members of the tribunal.
- Clause 6.-** Sub-clause (1) of this clause empowers the State Government to fill up vacancies of the member.
- Clause 8.-** This clause empowers the State Government to determine by an order published in the *Official Gazette*, the headquarters of the tribunal.
- Clause 10.-** Sub-clause (2) of this Clause empowers the tribunal to make regulations for regulating its procedures for the purpose of effective discharge of its functions and disposal of its business.
- Clause 14.-** Clause (d) of this clause empowers the State Government to prescribe by rules, any other matters for which the tribunal shall have the powers of a civil court.
- Clause 18.-** This clause empowers the State Government to prescribe by rules, the fees to be charged on appeal or application made to the tribunal.
- Clause 19.-** This clause empowers the State Government to prescribe by rules, the fees to be charged for inspection of the record of the tribunal.
- Clause 21.-** This clause empowers the State Government to make, by notification in the *Official Gazette*, rules for carrying out the purposes of the Act.

Clause 25.- This clause empowers the State Government to remove, by an order published in the *Official Gazette*, any difficulty arising within a period of two years from the commencement of the Act.

The delegation of the legislative powers as aforesaid is necessary and is of normal character.

Dated the 24th February, 2006.

ANANDIBEN PATEL,

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 27th February, 2006.

S.S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLVII]

TUESDAY, MARCH 7, 2006/PHALGUNA 16, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT (SUPPLEMENTARY) APPROPRIATION

BILL, 2006.

GUJARAT BILL NO. 11 OF 2006.

A BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2006.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2006.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of three thousand four hundred eighteen crores, nine lakhs, seventy-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2006, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of
Rs.34,18,09,74,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year 2005-
2006.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	67,08,000	-	67,08,000
2	Agriculture	Revenue	6,40,70,000	30,000	6,41,00,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	14,42,000	-	14,42,000
4	Animal Husbandry and Dairy Development	Revenue	1,93,23,000	-	1,93,23,000
		Capital	6,43,50,000	-	6,43,50,000
5	Co-operation	Revenue	1,30,00,000	-	1,30,00,000
		Capital	38,00,05,000	-	38,00,05,000
6	Other Expenditure pertaining to Agriculture and Co-operation Department	Revenue	-	19,000	19,000
7	Education Department	Revenue	3,15,000	-	3,15,000
8	Education	Revenue	2,83,64,34,000	2,92,00,000	2,86,56,34,000
9	Other Expenditure pertaining to Education Department	Revenue	9,95,000	-	9,95,000
12	Energy Projects	Capital	3,23,98,52,000	-	3,23,98,52,000
14	Finance Department	Revenue	40,00,000	-	40,00,000
15	Tax Collection Charges (Finance Department)	Revenue	1,000	10,000	11,000
16	Treasury and Accounts Administration	Revenue	1,02,00,000	-	1,02,00,000
17	Pension and other Retirement Benefits	Revenue	56,13,15,000	-	56,13,15,000
18	Other Expenditure pertaining to Finance Department	Revenue	1,99,46,70,000	-	1,99,46,70,000
		Capital	1,000	-	1,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	-	3,17,57,44,000	3,17,57,44,000
21	Civil Supplies	Revenue	22,10,000	-	22,10,000
25	Forests	Revenue	5,87,15,000	5,03,000	5,92,18,000
		Capital	1,000	-	1,000
26	Environment	Revenue	94,000	-	94,000
29	Council of Ministers	Revenue	45,14,000	-	45,14,000
30	Elections	Revenue	1,000	-	1,000
32	General Administration Department	Revenue	4,34,06,000	-	4,34,06,000
33	Economic Advice and Statistics	Revenue	37,68,000	-	37,68,000
34	Other Expenditure pertaining to General Administration Department	Revenue	1,000	-	1,000
35	State Legislature	Revenue	18,00,000	-	18,00,000
37	Health and Family Welfare Department	Revenue	12,63,41,000	-	12,63,41,000
38	Medical and Public Health	Revenue	34,89,87,000	13,000	34,90,00,000
39	Family Welfare	Revenue	2,80,00,000	-	2,80,00,000
40	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	-	81,000	81,000
41	Home Department	Revenue	44,00,000	1,55,000	45,55,000
42	Police	Revenue	28,91,54,000	29,13,000	29,20,67,000
44	Transport	Revenue	2,29,45,000	-	2,29,45,000
45	State Excise	Revenue	4,75,000	-	4,75,000
46	Other Expenditure pertaining to Home Department	Revenue	1,000	-	1,000
49	Industries	Revenue	1,45,49,000	-	1,45,49,000
50	Mines and Minerals	Revenue	35,60,000	-	35,60,000
53	Information and Broadcasting Department	Revenue	4,00,000	-	4,00,000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	14,80,000	-	14,80,000
57	Labour and Employment	Revenue	5,03,26,000	-	5,03,26,000
60	Administration of Justice	Revenue	12,02,65,000	2,10,48,000	14,13,13,000

No. of Vote/ Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1.	2.		3.		
			Rs.	Rs.	Rs.
61	Other Expenditure pertaining to Legal Department	Revenue	62,15,000		62,15,000
65	Narmada Development Scheme	Capital	8,00,00,00,000		8,00,00,00,000
66	Irrigation and Soil Conservation	Revenue	6,03,46,000	75,96,000	6,79,42,000
		Capital	1,63,84,33,000	1,27,92,000	1,65,12,25,000
67	Water Supply	Capital	95,09,24,000		95,09,24,000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue		2,89,32,000	2,89,32,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	19,84,000		19,84,000
70	Community Development	Revenue	2,45,75,000		2,45,75,000
71	Rural Housing and Rural Development	Revenue	26,38,000	15,70,000	42,08,000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	10,00,15,000		10,00,15,000
74	Fisheries	Revenue	29,73,00,000		29,73,00,000
75	Other Expenditure pertaining to Ports and Fisheries Department	Capital	6,00,000		6,00,000
76	Revenue Department	Revenue	15,30,000	8,000	15,38,000
77	Tax Collection Charges (Revenue Department)	Revenue	4,41,17,000		4,41,17,000
78	District Administration	Revenue	6,40,29,000	45,000	6,40,74,000
79	Relief on account of Natural Calamities	Revenue	5,60,65,99,000		5,60,65,99,000
81	Compensation and Assignments	Revenue		2,000	2,000
		Capital	35,50,000	3,39,000	38,89,000
82	Other Expenditure pertaining to Revenue Department	Revenue	18,43,86,000		18,43,86,000
83	Roads and Buildings Department	Revenue	96,00,000		96,00,000
84	Non-Residential Buildings	Revenue		8,92,000	8,92,000
		Capital	4,000	31,80,000	31,84,000
85	Residential Buildings	Revenue	50,00,000	3,32,000	53,32,000
		Capital	5,28,76,000		5,28,76,000
86	Roads and Bridges	Revenue	23,58,36,000	21,26,000	23,79,62,000
		Capital	89,15,52,000	1,98,08,000	91,13,60,000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	94,45,000	4,25,24,000	5,19,69,000
89	Science and Technology Department	Revenue	1,000		1,000
90	Other Expenditure pertaining to Science and Technology Department	Capital	2,49,00,000		2,49,00,000
92	Social Security and Welfare	Revenue	7,12,17,000		7,12,17,000
		Capital	1,000		1,000
93	Welfare of Scheduled tribes	Revenue	1,000		1,000
95	Special Component Plan for Scheduled Castes	Revenue	3,000		3,000
		Capital	1,04,80,000		1,04,80,000
96	Tribal Area Sub-Plan	Revenue	56,91,47,000	81,65,000	57,73,12,000
		Capital	1,03,01,42,000	1,22,06,000	1,04,23,48,000
98	Youth Services and Cultural Activities	Revenue	2,59,05,000		2,59,05,000
100	Urban Development and Urban Housing Department	Revenue	8,25,000		8,25,000
102	Urban Development	Revenue	30,66,94,000		30,66,94,000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	25,000		25,000
105	Women and Child Development Department	Revenue	12,05,000		12,05,000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	25,65,67,000		25,65,67,000
Total:		Revenue	14,52,30,70,000	3,32,19,08,000	17,84,49,78,000
		Capital	16,28,76,71,000	4,83,25,000	16,33,59,96,000
Grand Total:			30,81,07,41,000	3,37,02,33,000	34,18,09,74,000

STATEMENT OF OBJECTS AND REASONS

This Bills is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March-2006

The amounts are shown below :-

Rs.

(a) Revenue Expenditure	17,84,49,78,000
(b) Capital Expenditure	16,33,59,96,000
Total :-	34,18,09,74,000

Dated the 6th March, 2006

SAURABH PATEL

By order and in the name of the Governor of Gujarat,

Gandhinagar.

Dated the 7th March, 2006.

S. S. PARMAR,

Secretary to the Government of Gujarat.
Legislative and Parliamentary Affairs Department



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] TUESDAY, MARCH 14, 2006/PHALGUNA 23, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT)

BILL, 2006.

GUJARAT BILL NO. 12 OF 2006.

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force on the 1st April, 2006.

Bom. LXV of
1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3, -

Amendment
of section 3 of
Bom. LXV of
1958.

(1) in sub-section (1), for the words "Eighth and Ninth", the words "Eighth, Ninth, Tenth and Eleventh" shall be substituted;

(2) in the first proviso, after the words "Eighth Schedule", the words "or Tenth Schedule" shall be inserted.

3. In the principal Act, in section 4, in sub-section (1AB), in clause (a), for the words "Eight Schedule or Ninth Schedule", the words "Eighth Schedule, Ninth Schedule, Tenth Schedule or Eleventh Schedule" shall be substituted.

Amendment
of section 4
of Bom. LXV
of 1958

Amendment
of section 11
of Bom. LXV
of 1958.

4. In the principal Act, in section 11, in sub-section (2), in clause (c), for the words "Tenth Schedule", the words "Twelfth Schedule" shall be substituted.

Amendment
of section 25
of Bom. LXV
of 1958.

5. In the principal Act, in section 25, for the words "Eleventh Schedule", the words "Thirteenth Schedule" shall be substituted.

Amendment
of Second
Schedule to
Bom. LXV of
1958.

6. In the principal Act, in the Second Schedule, in Part I,-

- (1) clauses I and IV shall be deleted;
- (2) *Explanation* I and II shall be deleted.

Amendment
of Third
Schedule to
Bom. LXV of
1958.

7. In the principal Act, in the Third Schedule, in Part I,-

- (1) clauses I and IV shall be deleted;
- (2) *Explanation* I and II shall be deleted.

Amendment
of Fourth
Schedule to
Bom. LXV of
1958.

8. In the principal Act, in the Fourth Schedule, in Part II, in column (2), for the words "of fifty per cent.", the words "not exceeding fifty per cent." shall be substituted.

Amendment
of Tenth
Schedule to
Bom. LXV of
1958.

9. In the principal Act, the existing Tenth Schedule shall be renumbered as Twelfth Schedule.

Amendment
of Eleventh
Schedule to
Bom. LXV of
1958.

10. In the principal Act, the existing Eleventh Schedule shall be renumbered as Thirteenth Schedule.

Insertion of
new
Schedules in
Bom. LXV of
1958.

11. In the principal Act, after Ninth Schedule, the following Schedules shall be inserted, namely:-

"TENTH SCHEDULE

(See section 3)

Motor Vehicles (other than transport vehicles and motor vehicles liable to tax under the Second and Fourth Schedules) registered in State of Gujarat on or after the 1st April, 2006.

Maximum
rate of
lump sum
tax.

Part I. *Motor vehicles using motor spirit, compressed natural gas, liquid petroleum gas or operated by electric battery or solar energy.*

- A. Motor Cycles and tricycles (including motor scooters and cycles with attachment for propelling the same by mechanical power) owned by an individual, an educational institution, a social welfare institution, a public trust, a local authority or a University. -

Eight per cent. of the
cost of vehicle.

- | | | |
|--|---|--|
| B. | Motor Vehicles owned by a person other than an individual, an educational institution, a social welfare institution, a public trust, a local authority or a University. | Twice the rates specified in clause A. |
| C. | Motor Vehicles falling under clause A or clause B and manufactured out of India and imported into India after the 31st March, 2006. | Twice the rates specified in clause A, or as the case may be, clause B. |
| Part II. Motor vehicles using fuel other than motor spirit, compressed natural gas, liquid petroleum gas or operated by electric battery or solar energy. | | The rates specified in Part I plus a surcharge of fifty per cent. on all or any class of motor vehicles mentioned therein. |

Explanation I.- For the purpose of this Schedule,-

- (i) "educational institution" shall mean such educational institution as is recognised by the State Government by order notified in the *Official Gazette*, in this behalf;
- (ii) "local authority" shall mean any municipal corporation, municipality, cantonment board or panchayat constituted under any law for the time being in force in the State of Gujarat;
- (iii) "public trust" shall mean a public trust registered under the Bombay Public Trusts Act, 1950 as in force in the State of Gujarat;
- (iv) "social welfare institution" shall mean any institution engaged in any activity conducive to the welfare of the general public and recognised by the State Government by order notified in the *Official Gazette*, for the purposes of this Schedule;
- (v) "University" shall mean a University established by or under any law for the time being in force in the State of Gujarat.

Bom. XXIX of
1950.

Explanation II.- If a motor cycle is jointly owned by more persons than one, then notwithstanding anything contained in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988, such motor vehicle shall be deemed to be owned by a person other than individual. 59 of 1988.

Explanation III.- For the purpose of calculating the rate of *lump sum* tax under this Schedule, if the invoice of the vehicle, or as the case may be, the Bill of Entry is not produced for any reason, then, the cost of vehicle shall be calculated as follows, namely:-

- (1)
 - (i) in case of model of such vehicle is being manufactured, the cost of vehicle certified by a local dealer or manufacturer of such vehicles,
 - (ii) in case of manufacture of such model has ceased, the prevailing market price of such vehicle certified by the licensed assessor or valuer of motor vehicles.
- (2) If the cost of vehicle could not be calculated as per clause (1), the prevailing cost of similar vehicle determined by the Taxation Authority,

closest in engine capacity and unladen weight of the vehicle in respect of which a tax is to be levied and collected.

Explanation IV.- In calculating the cost of vehicle, if the cost of the vehicle is not in multiple of hundred, the fraction of a hundred not exceeding fifty rupees shall be ignored and the fraction of hundred exceeding fifty rupees shall be taken as hundred rupees.

ELEVENTH SCHEDULE

(See section 3)

Motor Vehicles (Other than transport vehicles and motor vehicles liable to tax under the Third and Fifth Schedules) registered in any State other than the State of Gujarat and brought for use or keeping for use in the State of Gujarat on or after the 1st April, 2006.

Motor Cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power).

If the age of the vehicle from the month of registration is- Rate of lump sum tax.

1.	not more than 2 years.	93% of the tax.
2.	more than 2 years but not more than 3 years.	86% of the tax.
3.	more than 3 years but not more than 4 years.	79% of the tax.
4.	more than 4 years but not more than 5 years.	72% of the tax.
5.	more than 5 years but not more than 6 years.	65% of the tax.
6.	more than 6 years but not more than 7 years.	58% of the tax.
7.	more than 7 years but not more than 8 years.	51% of the tax.
8.	more than 8 years but not more than 9 years.	44% of the tax.
9.	more than 9 years but not more than 10 years.	37% of the tax.
10.	more than 10 years but not more than 11 years.	30% of the tax.
11.	more than 11 years but not more than 12 years.	23% of the tax.
12.	more than 12 years but not more than 13 years.	16% of the tax.
13.	more than 13 years but not more than 14 years.	9% of the tax.
14.	more than 14 years.	8% of the tax.

Explanation.- For the purpose of this Schedule, the expression 'tax' means the tax leviable under the Tenth Schedule."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 with a view to giving effect to the Budget proposal contained in the Budget Speech of the Chief Minister in the Gujarat Legislative Assembly on the 24th February, 2006.

Under the existing provisions of the Bombay Motor Vehicles Tax Act, 1958 a *lump sum* tax is being levied on non transport vehicles like moped, scooter, motor cycle, on the basis of their weight. It is considered necessary to change the criterion and to prescribe the rate of tax on the basis of the price of such vehicles.

Dated the 10th March, 2006.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 14th March, 2006.

S. S. PARMAR,

Secretary to the Government of Gujarat
Legislative and Parliamentary Affairs Department.



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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The Following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT EDUCATION CESS (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 13 OF 2006.

A BILL

further to amend the Gujarat Education Cess Act, 1962.

It is hereby enacted in the Fifty-seventh Year of the Republic of India,
as follows :-

1. (1) This Act may be called the Gujarat Education Cess (Amendment) Act, 2006. Short title and commencement.
- (2) It shall be deemed to have come into force with effect from 1st April, 2001.

Amendment of
section 2 of Guj.
XXXV of 1962.

2. In the Gujarat Education Cess Act, 1962 (hereinafter referred to as "the principal Act"), in section 2, -

(1) for clause (ii), the following clause shall be substituted, namely :-

"(ii) "City" means city as defined in the Bombay Provincial Municipal Corporations Act, 1949;";

Bom. LIX of
1949.

(2) for clause (iv), the following clause shall be substituted, namely:--

"(iv) " education cess" means, -

(i) surcharge levied under section 5 or 7; or

(ii) tax on lands and buildings levied under section 12; or

(iii) surcharge on lands and buildings levied under section 24A;";

(3) for clause (vi), the following clause shall be substituted, namely :-

"(vi) "local authority" means a municipal corporation, municipality, nagar panchayat, notified area committee, village panchayat or other body constituted under the relevant local authority law;";

(4) for clause (viii), the following clause shall be substituted, namely :-

"(viii) "property tax" means, -

(i) in a city, where property tax is levied under section 129 of the Bombay Provincial Municipal Corporations Act, 1949, general tax, and where property tax is levied under section 141B of that Act, property tax, and

Bom. LIX of
1949.

(ii) in other urban areas a tax or rate on buildings or lands or a tax or rate in the form of such tax or rate on buildings and lands levied under the relevant local authority law;";

(5) for clause (ix), the following clause shall be substituted, namely :-

"(ix) " relevant code" means the Bombay Land Revenue Code, 1879;";

Bom. V of
1879.

(6) for clause (x), the following clause shall be substituted, namely :-

"(x) relevant local authority law" means -

Bom. LIX of
1949.

(i) in relation to a city, the Bombay Provincial Municipal Corporations Act, 1949;

Guj. 34 of 1964.

(ii) in relation to a municipality and notified area, the Gujarat Municipalities Act, 1963;

Guj. 18 of 1993.

(iii) in relation to a village panchayat, the Gujarat Panchayats Act, 1993;

11 of 1924.

(iv) in relation to a cantonment, the Cantonments Act, 1924;";

(7) for clause (xi), the following clause shall be substituted, namely:-

"(xi) " surcharge" means surcharge levied under section 5 or 7 or under Chapter IVA;"

(8) for clause (xiv), the following clause shall be substituted, namely:-

"(xiv) "urban area" means an area which is for the time being included in the limits of a city, transitional area, small urban area, notified area, or cantonment under the relevant local authority law and the population of which is not less than fifteen thousand;"

3. In the principal Act, in section 3, in clause (b), the following shall be added at the end, namely :-

"levied on the basis of annual letting value or a surcharge on lands and buildings in a city levied on the basis of property tax".

Amendment of
section 3 of Guj.
XXXV of 1962.

4. In the principal Act, in section 5, sub-section (1A) shall be deleted.

Amendment of
section 5 of Guj.
XXXV of 1962.

5. In the principal Act, for section 11, the following section shall be substituted, namely:-

Substitution of
section 11 of Guj.
XXXV of 1962.

Rounding up
of amount of
surcharge.

"11. In computing the amount of surcharge payable under this Chapter, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee."

Amendment of
section 12 of
Guj.XXXV of
1962.

6. In the principal Act, in section 12, -

(1) in sub-section (1), for the words "a tax on lands and buildings situated in an urban area at the following rates, that is to say", the following shall be substituted, namely :-

"a tax on lands and buildings situated in an urban area where tax on lands and buildings is levied and collected on the basis of annual letting value, at the following rates that is to say";

(2) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) in computing the amount of tax payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee."

Amendment of
section 14 of
Guj.XXXV of
1962.

7. In the principal Act, in section 14, in sub-section (1), in the proviso, for the words "in the city of Ahmedabad", the words "in an urban area" shall be substituted.

Amendment of
section 23 of
Guj.XXXV of
1962.

8. In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Where any building assessed to tax is situated in a city and if such building or any portion thereof is demolished or removed otherwise than by an order of the Municipal Commissioner and notice in respect of such demolition or removal has been given to the Commissioner under the Bombay Provincial Municipal Corporations Act, 1949, the municipal corporation of the city shall remit or refund such portion of the tax in such manner and subject to such conditions as may be prescribed."

Bom. LIX of
1949.

Insertion of new
Chapter IVA in
Guj. XXXV of
1962.

9. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely :-

"CHAPTER IVA

SURCHARGE ON LANDS AND BUILDINGS

Levy of
surcharge.

24A. (1) In a city where property tax is levied and collected on the basis of carpet area under section 141B of the Bombay Provincial Municipal Corporations Act, 1949, there shall, subject to the provisions of this Act, be levied and collected with effect from the 1st day of April, 2001, a surcharge on lands and buildings in such city at the following rates, namely :-

Bom. LIX of
1949.

- (a) Where a building or land is used for residential purpose or any purpose other than trade, commerce or industry or the carrying on of a profession or business --
 - (i) if the property tax exceeds two hundred rupees but does not exceed five hundred rupees, at the rate of five per cent. of the property tax;
 - (ii) if the property tax exceeds five hundred rupees but does not exceed three thousand rupees, at the rate of ten per cent. of the property tax;
 - (iii) if the property tax exceeds three thousand rupees, at the rate of fifteen per cent. of the property tax; and
- (b) where a building or land is used for the purpose of trade, commerce or industry or the carrying on of a profession or business,-
 - (i) if the property tax exceeds two hundred rupees but does not exceed five hundred rupees, at the rate of ten per cent. of the property tax;
 - (ii) if the property tax exceeds five hundred rupees but does not exceed three thousand rupees, at the rate of twenty per cent. of the property tax;
 - (iii) If the property tax exceeds three thousand rupees, at the rate of thirty per cent. of the property tax;

Provided that on any such land or building owned by a specified widow or a specified disabled person, the surcharge shall be levied and collected at half of such rate:

Provided further that no surcharge shall be levied on such land or building if it is actually occupied by such widow or, as the case may be, disabled person, or if it is unlet.

(2) Where any land, building, tenement or a part of a building is separately assessed to property tax but is simultaneously used for two or more purposes mentioned in sub-section (1), the surcharge under this section shall be levied at the highest rate applicable in relation to any of the purposes for which the land, building, tenement or a part of a building is used.

(3) In computing the amount of surcharge payable under this section, any amount less than fifty paise shall be ignored and any amount which is fifty paise or more shall be increased to one rupee.

Authority
competent to
collect surcharge.

24B. (1) The surcharge (including any penalty) shall be collected by the Municipal Corporation of the city in the same manner in which the property tax is collected in the city under the provisions of the Bombay Provincial Municipal Corporations Act, 1949.

Bom. LIX of
1949.

(2) The collection of surcharge and recovery of penalty on behalf of the Municipal Corporation of the city shall be made by the appropriate authority appointed to collect the property tax on behalf of the Corporation under the Bombay Provincial Municipal Corporations Act, 1949.

Bom. LIX of
1949.

(3) The Municipal Corporation of the city shall in respect of the cost of collection of the surcharge be entitled to such rebate as may be prescribed.

Application of
certain sections to
levy of surcharge.

24C. The provisions of sections 13, 14, 15A, 16, 17, 18, 19, 21, 23 and 24 shall apply in relation to surcharge levied under section 24A subject to modifications specified in the Schedule."

Amendment of
section 25 of Guj.
XXXV of 1962.

10. In the principal Act, in section 25,-

(1) in sub-section (1),-

(a) for the words and figures "section 195 of the Gujarat Panchayats Act, 1961", the words and figures "section 219 of the Gujarat Panchayats Act, 1993" shall be substituted;

(b) for the words "surcharges levied under this Act", the words and figures "surcharges levied under sections 5 and 7" shall be substituted;

Guj. VI
of 1962.
Guj. 18 of
1993.

(2) in sub-section (2), for the words "surcharges levied under this Act", the words and figures "surcharges levied under sections 5 and 7" shall be substituted.

Amendment of
section 28 of Guj.
= XXXV of 1962.

11. In the principal Act, in section 28, in sub-section (2),-

(a) in clause (c), for the word "tax", the words, figures and letter "tax levied under section 12 or, as the case may be, surcharge levied under section 24A" shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:-

"(cc) the rebate which the municipal corporation shall be entitled under sub-section(3) of section 24B;"

12. In the principal Act, after section 28, the following Schedule shall be added, namely :-

Insertion of
Schedule in Guj.
XXXV of 1962.

"SCHEDULE

(See section 24C)

1. In section 13, for the words and figures "tax under section 12", occurring at two places, the words, figures and letter "surcharge levied under section 24A" shall be substituted.

2. In section 14, for the word "tax" occurring at three places, the word "surcharge" shall be substituted.

3. In section 16,-

(1) in sub-section (1),-

(a) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;

(b) for the words and figures "of section 15", the words, figures and letter "of section 24B" shall be substituted;

(2) in sub-section (2), for the words and figures "section 15 for the collection of tax", the words, figures and letter "section 24B for the collection of surcharge" shall be substituted.

4. In section 17, for the word "tax" wherever it occurs, the word "surcharge" shall be substituted.

5. In section 18, for the portion beginning with the words "in respect of which the tax is due" and ending with the words "the annual letting value thereof", the following shall be substituted, namely:-

"in respect of which the surcharge is due, such portion thereof as bears to the total amount of the surcharge due, the same ratio which the carpet area of the part of the land or building occupied by the occupier bears to the aggregate carpet area of the land or building".

6. In section 19,-

(1) in sub-section (1), -

(a) for the word and figures "section 12", the word, figures and letter "section 24A" shall be substituted;

(b) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;

(2) in sub-section (2),-

(a) for the word "tax" wherever it occurs, the word "surcharge" shall be substituted;

- (b) for the words "pro-rata to the amount of rents for which such tenements are let", the words "pro-rata to the carpet area of such tenements" shall be substituted;
 - (c) in the first proviso, for the word and figures "section 12", the word, figures and letter "section 24A" shall be substituted;
- (3) in sub-section (3), for the word "tax", the word "surcharge" shall be substituted.
7. In section 21, for the figures and word "19 or 20", the figures "19" shall be substituted.
8. In section 23, -
- (1) in sub-section (1), -
 - (a) for the words "assessed to tax", the words "assessed to surcharge" shall be substituted;
 - (b) for the words "portion of the tax", the words "portion of surcharge" shall be substituted;
 - (c) for the words "the relevant local authority law, then the local authority", the words and figures "The Bombay Provincial Municipal Corporations Act, 1949, then the Municipal Corporation of the city" shall be substituted;
 - (2) in sub-section (2), for the word "tax" occurring at two places, the word "surcharge" shall be substituted.
9. In section 24, in sub-section (1), for the word "tax" occurring at two places, the word "surcharge" shall be substituted."

Bom. LIX of
1949.

STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Gujarat Education Cess Act, 1962, a tax (Education Cess) is levied on the lands and buildings situated in urban area on the basis of the annual letting value. In view of the amendments made by the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1999, in the Bombay Provincial Municipal Corporations Act, 1949, the Municipal Corporation is empowered to levy tax on buildings and lands either on the basis of annual letting value or on the basis of the carpet area. It is, therefore, considered necessary to amend the Gujarat Act of 1962 so as to take power to the State Government to levy surcharge on property tax levied on the lands and buildings on the basis of carpet area.

This Bill seeks to insert a new Chapter IVA and to make consequential amendments in the Gujarat Act to achieve the aforesaid object.

INDRAVIJAYSINH JADEJA

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in following respects, namely:-

Clause 8.- Sub-section (2) of section 23 which is sought to be substituted by this clause empowers the State Government to prescribe by rules, the portion of the tax, the manner in which and conditions subject to which a municipal corporation of a city shall remit or refund such portion of the tax under the circumstances stated in that sub-section.

Clause 9.- Sub-section (3) of section 24B which is sought to be inserted by this clause empowers the State Government to prescribe by rules, subject to which the municipal corporation of a city shall be entitled for the rebate for the cost of collection of surcharge.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14th March, 2006.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,
Dated the 14th March, 2006

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.



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Bills introduced in the Gujarat Legislative Assembly.

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The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT REGISTRATION OF MARRIAGES BILL, 2006.

GUJARAT BILL NO. 14 OF 2006.

A BILL

to provide for registration of marriages in the State of Gujarat and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Registration of Marriages Act, 2006. Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2.

In this Act, unless the context otherwise requires, -

(a) "to contract a marriage" means to solemnize or enter into a marriage under any law for the time being in force or by custom or usage in any form or manner;

(b) "marriage" includes re-marriage;

(c) "memorandum" means a memorandum of marriage referred to in sections 5 and 6;

(d) "priest" means any person who solemnizes a marriage;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "register of marriages" means the register of marriages maintained under this Act;

(g) "Registrar" means the Registrar of Marriages appointed under this Act;

(h) "Registrar-General" means the Registrar-General of Births, Deaths and Marriages appointed for the State of Gujarat under the Births, Deaths and Marriages Registration Act, 1886.

VI of
1986.

Appointment of Registrar of Marriages.

3. (1) The State Government may, by general or special order, appoint, either by name or by virtue of their office, such number of persons as it thinks necessary, to be the Registrars of Marriages for such local areas as may be specified in the order, and one or more Registrar may be appointed for one or more such areas for carrying out the purposes of this Act.

(2) The Registrar shall exercise such powers and perform such duties as may be prescribed by or under this Act and shall work under the general supervision and control of the Registrar-General and the State Government.

Marriages to be registered.

4. From the date of the coming into force of this Act, every marriage contracted in the State shall be registered in the manner provided in section 5 or, as the case may be, section 6.

Memorandum of marriage.

5. The parties to a marriage shall prepare a memorandum in the Form specified in the Schedule and shall deliver or send by registered post the said memorandum in duplicate to the Registrar of the area where marriage is contracted, within a period of thirty days from the date of the marriage.

Memorandum of marriage submitted after thirty days.

6. (1) A memorandum of a marriage may be submitted by the parties to the marriage to the Registrar of the area where marriage is contracted after the expiry of the period of thirty days specified in section 5.

(2) Nothing in sub-section (1) shall affect the liability of any person to any penalty under section 15, who has omitted or neglected to deliver or send the memorandum within the period of thirty days specified in section 5.

Signature on memorandum and fees to be paid.

7. Every memorandum submitted under section 5 or 6 shall be signed by the parties to the marriage and by the priest and the witnesses and shall be accompanied by such fees as may be prescribed.

8. (1) Where the Registrar, before whom the memorandum is presented under section 5 or 6, on scrutiny of the documents submitted with the memorandum or, on the other facts noticed or brought to his notice, is satisfied or has reason to believe that,-

Power to refuse registration of marriage.

(a) the marriage between the parties is not performed in accordance with the personal law of the parties; or

(b) the identity of the parties or the witnesses or the persons testifying the identity of the parties and the solemnization of the marriage is not established beyond reasonable doubt; or

(c) the documents tendered before him do not prove the marital status of the parties,

he may, after hearing the parties and recording the reasons in writing, refuse to register the marriage and may-

(i) call upon the parties to produce such further information or documents as deemed necessary, for establishing the identity of the parties and the witnesses or correctness of the information or documents presented to him, or

(ii) if deemed necessary, also refer the papers to the local police station within whose jurisdiction the parties reside, for verification.

(2) Where on further verification as provided in sub-section (1), the Registrar is satisfied that there is no objection to register the marriage, he may register the same. If in the opinion of the Registrar, the marriage is not fit for registration, he may pass an order of refusal in writing, recording the reasons therefor and send the duplicate copy thereof to the Registrar-General.

9. (1) Any person aggrieved by the order of the Registrar refusing to register the marriage under section 8, may, within a period of thirty days from the date of receipt of such order, appeal to the Registrar-General in such manner and accompanied by such fees as may be prescribed.

Appellate power of Registrar-General.

(2) The Registrar-General, after giving an opportunity of being heard to the party concerned, pass an order, after recording the reasons in writing, directing the Registrar to register the marriage or confirming the order of the Registrar.

10. Any person aggrieved by the order of the Registrar-General made under section 9 may, within a period of thirty days from the date of the order, appeal against such order to the District Court within the local limits of whose jurisdiction the Registrar of Marriages has his office and the decision of the District Court on such appeal shall be final and thereupon the Registrar shall act in conformity with such decision.

Appeal from order under section 9.

11. (1) The Registrar shall maintain a register of marriages contracted in the State in such form and in such manner as may be prescribed. On receipt of the memorandum of marriage under section 5 or 6, the Registrar shall file

Register of marriages.

the same in the register and shall send the duplicate copy thereof to the Registrar-General.

(2) On registration of the marriage, the Registrar shall issue a certificate of registration of marriage to the parties in the prescribed form.

Register to be open for public inspection.

12. The register of marriages shall, at all reasonable times, be open to inspection and the certified extracts therefrom shall, on application, be given by the Registrar to the applicant on payment of such fees as may be prescribed.

Non-registration not to invalidate marriage.

13. No marriage contracted in the State shall be deemed to be invalid solely by reason of the fact that it was not registered under this Act or that the memorandum was not delivered or sent to the Registrar or that such memorandum was defective or incorrect.

Responsibility of employer, etc. of verification of marriage registration certificate.

14. No employer or a Government or Semi-Government Authority or Company or Public Sector Undertaking or Local Authority shall carry out any change in their office record or in any office documents, such as change in the marital status or change of nomination, of its employee or in their dealings with any person, customer or client unless the employee or, as the case may be, the applicant, applying for carrying out or recording of such change, submits a certified copy of the certificate of registration of marriage granted under section 11 or granted under any other law for the time being in force.

Penalty for neglecting to comply with provisions of section 5 or for making false statement in memorandum.

15. Any person who -

(a) omits or neglects to deliver or send the memorandum as required by section 5; or

(b) makes any statement in the memorandum which is false in any material particular, and which he knows or has reason to believe to be false,

shall, on conviction, be punished with fine which may extend to one thousand rupees.

Penalty for failing to file memorandum.

16. The Registrar who wilfully fails to file the memorandum pursuant to section 5 or 6 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

Penalty for secreting, destroying or altering register.

17. Any person secreting, destroying or dishonestly or fraudulently altering the register of marriage or any part thereof shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

18. No prosecution for an offence punishable under this Act shall be instituted except by an officer authorised by the Registrar-General by general or special order, in this behalf.

Sanction for prosecution.

XLV of
1860.

19. Every Registrar while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Registrar to be public servant.

20. No suit, prosecution or other legal proceeding shall lie against the Registrar or any employee subordinate to him for anything which is in good faith done or purporting to be done under this Act or rules made thereunder.

Indemnity to persons acting under this Act.

21. (1) The State Government may, by notification in the *Official Gazette*, and subject to the previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely: -

- (a) the powers and duties of the Registrar under section 3;
- (b) the form and the manner in which register of marriages and records required to be maintained and the form of certificate of registration of marriage to be issued under section 11;
- (c) the custody in which the register and records are to be kept and the preservation of such registers and records;
- (d) the fees to be paid under section 7 and 12;
- (e) creating awareness for registration of marriages;
- (f) any other matter which may be or requires to be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

22. The provisions of this Act are in addition to and not in derogation of any other law for the time being in force.

Provisions of this Act to be in addition to and not in derogation of other laws.

Power of State Government to give directions.

23. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to the Registrar and to the Registrar-General, as it may think fit in this regard, for the effective and smooth implementation of the provisions of this Act, and the Registrar and the Registrar-General shall comply with such directions.

Power to
remove
difficulties.

24. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may be necessary for removing the difficulty.

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

Repeal and
savings.

25. (1) The Bombay Registration of Marriages Act, 1953 is hereby repealed.

V of 1954.

(2) Nothing in this Act shall affect, -

- (a) the marriages duly contracted and registered under the repealed Act;
- (b) anything done or any action taken or any extracts of register given under the repealed Act; or
- (c) any rules made or any register of marriages maintained under the repealed Act until they are rescinded or modified.

SCHEDULE

FORM

(See section 5)

MEMORANDUM OF MARRIAGE

1. Date of Marriage.
2. Place of marriage (with sufficient particulars to locate the place).
3. (a) Full name of the bridegroom.
- (b) His age. (Attach true copy of birth registration certificate or affidavit in the prescribed form)
- (c) Religion.
- (d) Usual place of residence.
- (e) Address.
- (f) Status of the bridegroom at the time of marriage, whether (Please ☒ tick whichever is applicable).
- (g) Signature of the bridegroom with date.
4. (a) Full name of the bride.
- (b) Her age. (Attach true copy of birth registration certificate or affidavit in the prescribed form)
- (c) Religion.
- (d) Usual place of residence.

- ☐ unmarried
- ☐ widower
- ☐ divorced
- ☐ married and if so, how many wives are alive.

(e) Address.

(f) Status of the bride at the time of marriage whether
(Please ☒ tick whichever is applicable).

☐ unmarried
☐ widow
☐ divorced.

(g) Signature of the bride with date.

5. (a) Full name of the father or mother or guardian of the bridegroom.
(b) Age.
(c) Usual place of residence.
(d) Address.
6. (a) Full name of the father or mother or guardian of the bride.
(b) Age.
(c) Usual place of residence.
(d) Address.
7. (a) Full name of the priest.
(b) Age.
(c) Usual place of residence.
(d) Address.
(e) Signature of the priest with date.
8. (1) (a) Full name of first witness.
(b) Age.
(c) Address.
(d) Signature with date.
- (2) (a) Full name of second witness.
(b) Age.
(c) Address.
(d) Signature with date.

STATEMENT OF OBJECTS AND REASONS

The Bombay Registration of Marriages Act, 1953, provides for compulsory registration of marriages solemnized in the State. The existing penal provisions under the Act are very lenient which have rendered the Act almost ineffective.

The key feature of the integrated service delivery in the National Population Policy, 2000 is the registration of births, deaths and marriages at village level. One of the strategic themes of Population Policy of the State is also to ensure the compulsory registration of all marriages.

The Supreme Court, has in recent order dated 15th April, 2005 in the case of *Seema Vs. Ashwani Kumar* observed that in absence of records relating to dates of marriages and parties to the marriage, problems come up which have far reaching consequences. Until a suitable legislation is made, the Government Order/executive instructions can be made enforceable in terms of the Order of this Court. These may be implemented where there is no statutory prescription for recording/registering the marriage and may be done as an additional measure where there is any such prescription.

In taking into account the overall situation and experience gained over the years while implementing the existing law, it is considered necessary to make a new law with stricter and stringent provisions to ensure effective implementation of the provisions of the compulsory registration of marriages in the State. A provision is also made in clause 16 to fix accountability of Registrar who wilfully fails to file the memorandum under the provisions of this Bill. The compulsory registration of marriages would provide the reliable data regarding the exact position of number of marriages contracted in the State alongwith relevant demographic details which would provide a basis for socio-economic planning in the State.

The following notes on clauses explain, in brief, the important provisions of the Bill.

Clause 2.-- This clause defines certain terms used in the Bill.

Clause 3.-- This clause empowers the State Government to appoint the Registrar of Marriages for such local areas as may be specified in the order.

Clause 4.-- This clause provides for registration of marriages contracted in the State.

Clause 5.-- This clause requires the parties to a marriage to prepare a memorandum and deliver or send to the Registrar within a period of thirty days from the date of marriage.

Clause 6.-- This clause provides that the memorandum of a marriage may be submitted to the Registrar after expiry of the period of thirty days from the

date of marriage but shall be liable to penalty under section 15, if any, for omitting or neglecting to send the said memorandum.

Clause 7.-- This clause requires that every memorandum of marriages shall be signed by the parties to the marriage, priest and witnesses and shall be accompanied by prescribed fees.

Clause 8.-- This clause empowers the Registrar to refuse the registration of marriage on any of the grounds specified therein.

Clause 9.-- This clause empowers any person aggrieved by an order of the Registrar refusing to register the marriage to file an appeal to the Registrar-General.

Clause 10.-- This clause empowers the person aggrieved by an order of the Registrar-General to file an appeal to the District Court.

Clause 11.-- This clause requires the Registrar to maintain a register of marriages contracted in the State and to provide for issue of certificate of registration of marriage.

Clause 12.-- This clause provides that the Register of marriages shall be open for inspection at all reasonable times and enables the applicant to get the certified extract from the Register.

Clause 13.-- This clause provides that non-registration of marriage shall not make marriage invalid solely on the ground that it was not registered under the Act or memorandum of marriage was not delivered to the Registrar.

Clause 14.-- This clause casts duty upon the employer, Government or semi-Government authority or company or local authority not to carry out any change in the office record or in any office document relating to marital status of the employee unless the applicant applying for carrying out or recording of change, submits a certified copy of the certificate of registration of marriage.

Clause 15.-- This clause provides for penalty for neglecting to comply with provisions of the Act or for making false statement in the memorandum of marriage.

Clause 16.-- This clause provides for penalty on the Registrar who wilfully fails to file the memorandum pursuant provisions of section 5 or 6.

Clause 17.-- This clause provides for penalty for secreting, destroying or altering the register of marriages.

Clause 20.-- This clause provides for usual indemnity for the acts done in good faith.

Clause 21.-- This clause empowers the State Government to make rules subject to the previous publication, for carrying out the purposes of the Act and particularly for all or any of the matters in specified sub-section (2).

Clause 22.-- This clause provides that provisions of this Bill are in addition to and not in derogation of other laws.

Clause 23.-- This clause empowers the State Government to issue directions to the Registrar and to the Registrar-General for effective implementation of the provisions of Act.

Clause 24.-- This clause empowers the State Government to remove difficulty that may arise in giving effect to the provisions of the Act by passing an order in that respect.

Clause 25.-- This clause provides for repeal of the Bombay Registration of Marriages Act, 1953.

This Bill seeks to achieve the aforesaid objects.

ASHOK BHATT

FINANCIAL MEMORANDUM

The Bombay Registration of Marriages Act, 1953 was adopted by and extended to the State of Gujarat on its formation. Now, Government has considered to enact the Gujarat Registration of Marriages Act, 2006 by replacing the Bombay Registration of Marriages Act, 1953. Therefore, the existing staff of the Department will perform the functions to carry out the objects of the Act. There would not be any financial liability on State exchequer on this count. Therefore, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

ASHOK BHATT

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely :-

- Clause 1.-** Sub-clause (3) of this clause empowers the State Government to appoint the date on which the remaining provisions of the Act shall come into force.
- Clause 3.-** (i) Sub-clause (1) of this clause empowers the State Government to appoint, by general or special order, such number of persons, to be the Registrar of Marriages for such local areas as may be specified in the order;
- (ii) sub-clause (2) of this clause empowers the State Government to prescribe by rules, the powers and duties to be exercised by the Registrar.
- Clause 7.-** This clause empowers the State Government to prescribe by rules, the fees to be accompanied with the memorandum of marriage which may be submitted by the parties to marriage under clause 5 or 6.
- Clause 9.-** Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the aggrieved person shall file appeal to the Registrar-General and the fees to be accompanied with the appeal.
- Clause 11.-** This clause empowers the State Government to prescribe by rules, the form of the register of marriages, and the manner in which record shall be maintained by the Registrar and also the form of certificate of registration of marriage.
- Clause 12.-** This clause empowers the State Government to prescribe by rules, the fees to be paid for obtaining the certified extracts from the register of marriages.
- Clause 21.-** Sub-clause (1) of this clause empowers the State Government to make rules generally for carrying out the purposes of the Act and particularly for all or any of the matters specified in sub-clause (2).
- Clause 24.-** Sub-clause (1) of this clause empowers the State Government to make by order, in the *Official Gazette*, such provisions for removing any difficulty arising in giving effect to the provisions of the Act.

The delegation of legislative powers as proposed is necessary and is of a normal character.

Dated the 16th March, 2006.

ASHOK BHATT.

By order and in the name of the Governor of Gujarat.

Gandhinagar,

Dated the 17th March, 2006

S.S. PARMAR,

Secretary to the Government of Gujarat
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] SATURDAY, MARCH 18, 2006/PHALGUNA 27, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT)

BILL, 2006.

GUJARAT BILL NO. 15 OF 2006.

A BILL

to further amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 2006.

Short title and commencement.

(2) It shall come into force on the 1st April, 2006.

2. In the Bombay Electricity Duty Act, 1958, in Schedule I, in Part I, -

Amendment of Schedule I to Bom. XL of 1958.

(1) in item (1), in sub-item (b), in entry (ii), in column 2, for the figures and words "40 per cent.", the figures and words "30 per cent." shall be substituted;

(2) in item (1A), in sub-item (b), in entry (ii), in column 2, for the figures and words "35 per cent.", the figures and words "30 per cent." shall be substituted;

- (3) in item (3), in column 2, for the figures and words "35 per cent.", the figures and words "30 per cent." shall be substituted;
- (4) in item (4), in sub-item (b), in column 2, for the figures and words "35 per cent.", the figures and words "30 per cent." shall be substituted;
- (5) in item (7), in column 2, for the figures and words "35 per cent.", the figures and words "30 per cent." shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Electricity Duty Act, 1958 with a view to giving effect to the Budget proposal contained in the Budget speech of the Chief Minister in the Gujarat Legislative Assembly on the 24th February, 2006.

Dated the 17th March, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 18th March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVIII]

TUESDAY, MARCH 21, 2006/PHALGUNA 30, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ENTERTAINMENTS TAX (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 16 OF 2006.

A BILL

further to amend the Gujarat Entertainments Tax Act, 1977.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Entertainments Tax (Amendment) Act, 2006.

Short title & commencement

(2) It shall come into force on the 1st April, 2006.

Guj. 16 of 1977.

2. In the Gujarat Entertainments Tax Act, 1977(hereinafter referred to as "the principal Act"), in section 3, for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment section 3 of Guj. 16 of 1977.

"(1) There shall be levied and paid to the State Government on,-

(a) every payment for admission to an entertainment, a tax, at such rate not exceeding twenty-five per cent. of such payment, as the State Government may, by notification in the *Official Gazette*, fix, and different rates may be fixed in respect of different classes of entertainments:

Provided that the payment for admission to an entertainment shall not be less than rupees ten per person.

(b) every payment for admission of a motor vehicle into the auditorium of a cinema known as Drive-in-Cinema, if such payment is separately charged by the proprietor for such admission, a tax at the rate of twenty-five per cent. of such payment."

Amendment of
section 6 of
Guj. 16 of
1977.

3. In the principal Act, in section 6, in sub-sections (3) and (5), for words "fifty per cent.", the words "twenty-five per cent." shall be substituted.

Amendment of
section 6A of
Guj. 16 of
1977.

4. In the principal Act, in section 6A, in sub-section (3), for clause (d), the following clause shall substituted, namely:-

"(d) Where a proprietor has been permitted to pay tax under clause (c), he shall be liable to pay tax in advance latest by the 15th day of the month preceding the month to which the tax relates, at the following rates, namely:-

Where he holds entertainment in an auditorium, the sitting capacity of which-

- (i) does not exceed 30 seats, at the rate of Rs. 3000 per month or for part of a month;
- (ii) exceeds 30 seats but does not exceed 50 seats, at the rate of Rs. 4000 per month or for part of a month;
- (iii) exceeds 50 seats but does not exceed 75 seats, at the rate of Rs. 5000 per month or for part of a month;
- (iv) exceeds 75 seats but does not exceed 100 seats, at the rate of Rs. 6000 per month or for part of a month;
- (v) exceeds 100 seats but does not exceed 125 seats, at the rate of Rs. 8000 per month or for part of a month."

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend sections 3, 6 and 6A of the Gujarat Entertainments Tax Act, 1977 with a view to giving effect to the proposal contained in the Budget Speech of the Chief Minister in the Legislative Assembly on the 24th February, 2006.

INDRAVIJAYSINH JADEJA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respects :-

Clause 2.- Sub-section (1) of section 3 proposed to be substituted by this clause empowers the State Government to fix, by notification in the *Official Gazette*, the rate for admission to an entertainment. It also empowers the State Government to fix different rates in respect of different classes of entertainments.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 20th March, 2006.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,
Dated the 21st March, 2006.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] TUESDAY, MARCH 21, 2006/PHALGUNA 30, 1927

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TAX ON LUXURIES (HOTELS AND LODGING HOUSES) (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 17 of 2006.

A BILL

further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2006.

Short title
and
commencement.

(2) It shall come into force on the 1st April, 2006.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (hereinafter referred to as "the principal Act"), in section 2, -

Amendment of
section 2 of
Guj. 24 of 1977.

- (i) in clauses (a) and (e), the word "telephone" shall be deleted;
- (ii) in clause (e), for the words "two hundred rupees per person", the words "five hundred rupees per room" shall be substituted;
- (iii) after clause (b), the following clause shall be inserted, namely:-
 - (c) "concessional rate" in relation to a luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotel or lower than that fixed by the Government or any other authority under any law for the time being in force;"

Amendment
of section 3
of Guj.24 of
1977.

3. In the principal Act, in section 3, for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Subject to the provisions of this Act, there shall be levied and collected a tax on luxury provided in a hotel in respect of a room under the occupation by any person at the rate specified in the Table below :

TABLE

Sr.No.	Daily lodging charges per room	Occupancy	Rate of tax
(1)	(2)	(3)	(4)
1.	Where the charges for lodging are not more than rupees five hundred.	-	NIL
2.	Where the charges for lodging are more than rupees five hundred but not more than rupees two thousand.	On consolidated payment made on the basis of 50 per cent. occupancy as per the average declared tariff.	5 per cent.
3.	Where the charges for lodging are more than rupees two thousand.	(a) On consolidated payment made on the basis of 50 per cent. occupancy as per the average declared tariff, or (b) On payment made on the basis of actual occupancy as per the declared tariff.	8 per cent. 12.5 per cent.

Explanation. - For the purpose of the Table, the expression “declared tariff” means the rate of charges declared by the proprietor under sub-section (1) of section 3B :

Provided that where charges for lodging are levied otherwise than on daily basis per room, then, for the purpose of determining the tax liability of any person occupying the room under this section, the charges shall be computed as a day per room based on the period of lodging for which charges are payable and the number of rooms actually lodged or permitted to lodge according to the rules or custom of the hotel.”

4. In the principal Act, after section 3, the following sections shall be inserted, namely:-

Consolidated
payment of tax.

"3A. (1) The Collector may, on an application made in the prescribed form by the proprietor of any hotel in respect of which tax is payable under the category at serial No.3 of the Table below sub-section (1) of section 3, allow such proprietor on such conditions as the Collector may impose, to pay the consolidated tax in respect of such hotel at the rate of 8 per cent. on the basis of 50 per cent. occupancy as per the declared tariff.

Insertion of new
sections 3A and
3B in Guj. 24 of
1977.

Guj.
of 2006.

(2) The application under sub-section (1) shall be made by the proprietor within ninety days from the date of commencement of the Gujarat Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2006 and any person who becomes a proprietor on any day after the date of such commencement, may exercise such option within ninety days from the day on which he becomes the proprietor:

Provided that an application under sub-section (2) may be entertained by the Collector after the expiry of the period of ninety days if the applicant satisfies the Collector that he had sufficient cause for not making the application within such period.

(3) On an application made under sub-section (1), the Collector may grant permission and there upon subject to sub-section (4), the payment of tax shall be made accordingly.

(4) A proprietor of a hotel who has been granted permission for payment of tax under sub-section (3), may at any time but not before the expiry of a period of twelve months from the date of commencement of option, give a notice to the Collector in such form as may be prescribed, to revoke his option.

(5) The Collector, on receipt of notice under sub-section (4) shall revoke the option granted to the proprietor under sub-section (3) and on such revocation, the proprietor of a hotel shall be liable to pay tax in accordance with the provisions of this Act.

Declaration of
rate of charges.

3B.

(1) Every proprietor shall declare in writing to the Collector the rate of charges for any luxury provided in the hotels in respect of every room.

(2) Where any proprietor intends to revise the rate of charge for any luxury provided in the hotel, he shall intimate in writing to the Collector seven days prior to the date of giving effect to such revised rates and the proprietor shall be liable to pay the tax at the revised rate after the expiry of seven days from the date of receipt of such intimation by the Collector."

5. In the principal Act, in section 4, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) Where luxury provided in a hotel in any room to any person (not being an employee of the hotel) is not charged at all or is charged at a concessional rate, then, there shall be levied and collected the tax on such luxury, as if full charges for such luxury were paid to the proprietor of the hotel."

Amend-
ment of
section 4 of
Guj. 24 of
1977.

Amendment of
section 11 of
Guj. 24 of 1977.

6. In the principal Act, in section 11, for the words and figures "Bombay Court-fees Act, 1959", the words and figures "Gujarat Court-fees Act, 2004" shall be substituted.

Bom.XXXVI
of 1959.
Guj. 4 of 2004.

Amendment of
section 21 of
Guj. 24 of 1977.

7. In the principal Act, in section 21, in sub-section (2), clauses (aa) and (aaa) shall be re-numbered as clauses (a-iii) and (a-iv) respectively and before clause (a-iii) as so re-numbered, the following clauses shall be inserted, namely:-

"(a-i) the form in which the proprietor shall apply under sub-section (1) of section 3A;

(a-ii) the form in which the proprietor shall give notice for revocation of option under sub-section (4) of section 3A;"

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 with a view to giving effect to the proposal contained in Budget speech of the Chief Minister in the Legislative Assembly on the 24th February, 2006.

INDRAVIJAYSINH JADEJA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects :-

Clause 4.- (i) Sub-section (1) of new section 3A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the form in which the proprietor shall apply for composition of tax;

(ii) sub-section (4) of new section 3A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the form in which the proprietor shall give notice for revocation of option of composition of tax.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 21st March, 2006.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 21st March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] WEDNESDAY, MARCH 22, 2006 / CAITRA 1, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT TAX ON LUXURY COMMODITIES (REPEAL) BILL, 2006.

GUJARAT BILL NO. 18 OF 2006.

A BILL

to repeal the Gujarat Tax on Luxury Commodities Act, 1995.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. This Act may be called the Gujarat Tax on Luxury Commodities (Repeal) Act, 2006. Short title.

2. (1) The Gujarat Tax on Luxury Commodities Act repealed.

(2) Notwithstanding such repeal, any amount stockists, prior to the repeal of the Act, shall be paid by Government treasury.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court in *Godfrey Phillips India Ltd. Vs. State of U.P.* (AIR 2005 S.C. 1103) has held that the State Legislature is not competent to enact the law to levy tax on luxury commodity viz. tobacco. The laws made by the other respondent States on the subject have been declared to be legislatively incompetent. The Supreme Court has also directed the appellant to pay the amount of luxury tax collected by them from the consumers/customers to the respective State Governments. In view of the aforesaid judgment of the Supreme Court, the Gujarat Tax on Luxury Commodities Act, 1995 is proposed to be repealed with a saving clause.

This Bill seeks to repeal the said Act.

Dated the 21st March, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat

Gandhinagar,
Dated the 22nd March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] THURSDAY, MARCH 23, 2006 / CAITRA 2, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 19 OF 2006.

A BILL

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 2006.
- (2) It shall come into force on the 1st April, 2006.

Bom. LX of
1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 4, in sub-section (1), for the words "ten rupees", the words "one hundred rupees" shall be substituted.

Amendment of
section 4 of
Bom. LX of
1958.

3. In the principal Act, in section 6, in the proviso, for the words "ten rupees", the words "one hundred rupees" shall be substituted.

Amendment of
section 6 of
Bom. LX of
1958.

Amendment
of section 29
of Bom. LX of
1958.

4. In the principal Act, in section 29,—

- (1) in sub-section (4), in the proviso, for the words “eight rupees”, the words “one hundred rupees” shall be substituted;
- (2) in sub-section (5), for the words “eight rupees” occurring at two places, the words “one hundred rupees” shall be substituted.

Amendment
of Schedule I
to Bom. LX of
1958.

5. In the principal Act, in Schedule I,—

- (1) article 1 shall be deleted,
- (2) in article 2, for the words “Subject to a maximum of one hundred rupees, four rupees for every hundred rupees or part thereof of the value of the bond”, the words “One hundred rupees” shall be substituted,
- (3) in article 3, for the words “Fifty rupees.”, the words “One hundred rupees” shall be substituted,
- (4) for article 5, the following shall be substituted, namely:—

“5. AGREEMENT OR MEMORANDUM
OF AN AGREEMENT OR ITS
RECORDS-

- (a) if relating to the sale of a bill of exchange;

Nil

- (b) if relating to the purchase or sale of a Government security;

One rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or, as the case may be, sale.

- (c) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, stocks or any other marketable security of a like nature in or of any incorporated company or other body corporate,-

- (i) when such agreement or memorandum of an agreement is with or through a member or between members of a Stock Exchange recognized under the Securities Contracts (Regulation) Act, 1956,

In the case of forward contracts relating to the purchase or sale of securities, one rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or, as the case may be, sale.

- (ii) in other cases;

One rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or, as the case may be, sale.

XLII of
1956.

(d) if relating to the purchase or sale of cotton including cotton pods or *Kapas* (unginned cotton);

One rupee for every ten thousand rupees or part thereof of the value of cotton at the time of its purchase or, as the case may be, sale.

(e) if relating to the purchase or sale of bullion or specie;

One rupee for every ten thousand rupees or part thereof of the value of silver, gold or, as the case may be, sovereigns.

(f) if relating to purchase or sale of oil seeds;

One rupee for every ten thousand rupees or part thereof of the value of the oil seeds at the time of its purchase or, as the case may be, sale.

(g) if relating to the purchase or sale of any kind of yarn, non-mineral oils or spices;

One rupee for every ten thousand rupees or part thereof of the value of such yarn, groundnut oil, other non-mineral oil or, as the case may be, spices.

(h) if relating to giving authority or power to a promoter or a developer, by whatever name called, for construction of or development of, or sale or transfer (in any manner whatsoever) of, any immovable property;

One rupees for every hundred rupees or part thereof of the market value of the property which is the subject matter of such agreement:

Provided that the provisions of section 32A shall, *mutates mutanids*, apply to such agreement, memorandum or records thereof as they apply to an instrument under that section:

Provided further that if the proper stamp duty is paid under clause (g) of article 45 on a power of attorney executed between the same parties in respect of the same property, then the stamp duty under this article shall be one hundred rupees.

(i) if relating to advertisement on radio, television, cinema, cable network, or any media other than newspaper;

Subject to maximum of three lakh rupees, fifty paise for every hundred rupees or part thereof on the amount of consideration specified in such agreement.

(j) if not otherwise provided for

one hundred rupees.

Exemption**Agreement or Memorandum of Agreement or its records,-**

- (a) for or relating to the purchase or sale of goods or merchandise exclusively, not being an agreement or memorandum of agreement chargeable under entry (d), entry (e), entry (f) or entry (g) of this article or NOTE or memorandum chargeable under article 40;
- (b) made in the form of tenders to the Central Government for or relating to any loan.

AGREEMENT TO LEASE

(See Lease No.30) ”,

(5) for article 6, the following shall be substituted, namely:—

“6. AGREEMENT OR MEMORANDUM OF AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN, PLEDGE OR HYPOTHECATION, that is to say any instrument evidencing an agreement or memorandum of agreement relating to-

- (1) the deposit of title deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt-

(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement,—

- (i) where the amount of loan or debt does not exceed Rs.10,00,00,000
- (ii) where it exceeds Rs.10,00,00,000;

Subject to maximum of one lakh rupees, twenty-five paise for every hundred rupees or part thereof.

Subject to maximum of three lakh rupees, fifty paise for every hundred rupees or part thereof.

- (b) if such loan or debt is repayable not more than three months from the date of such instrument; Half the duty payable under sub-clause (a).
- (2) the pawn, pledge or hypothecation of movable property, where such pawn, pledge or hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt-
- (i) where the amount of loan or debt does not exceed Rs.10,00,00,000 Subject to maximum of one lakh rupees, twenty-five paise for every hundred rupees or part thereof.
- (ii) where it exceeds Rs.10,00,00,000 Subject to maximum of three lakh rupees, fifty paise for every hundred rupees or part thereof.”
- (6) in article 9, in clause (b), for the words “Two hundred and fifty rupees”, the words “One hundred rupees” shall be substituted,
- (7) in article 10, for the words “Subject to a maximum of one hundred rupees, four rupees for every hundred rupees or part thereof”, the words “One hundred rupees” shall be substituted,
- (8) in article 11, for the words “Fifty rupees”, the words “One hundred rupees” shall be substituted,
- (9) in article 12, for the words “Subject to minimum of one thousand rupees and maximum of five lakhs rupees, fifteen paise for every hundred rupees or part thereof”, the words “Subject to maximum of five lakhs rupees, fifty paise for every hundred rupees or part thereof” shall be substituted,
- (10) in article 13, for the portion beginning with the words “The same duty” and ending with the words “forty rupees”, the words “One hundred rupees” shall be substituted,
- (11) for article 14, the following shall be substituted:—
- “14. BOND as defined by section 2(c) not being a debenture and not being otherwise provided for by this Act, or by the Gujarat Court-fees Act, 2004, if the amount or value secured by the bond-
- (i) does not exceed Rs.10,00,00,000 Subject to maximum of one lakh rupees, twenty-five paise for every hundred rupees or part thereof.

(ii) where it exceeds Rs.10,00,00,000

Subject to maximum of three lakh rupees, fifty paise for every hundred rupees or part thereof.

See Administration Bond (No.2), Bottomry Bond (No.15), Customs Bond or Excise Bond (No.23), Indemnity Bond (No.29), Respondentia Bond (No.50), Security Bond (No.51).

Exemption

Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.”,

- (12) in article 16, for the words “Fifty rupees”, the words “One hundred rupees” shall be substituted,
- (13) in article 18, for the words “Two rupees”, the words “One rupee for every one thousand rupees or part thereof of the value of the share, scrip or stock” shall be substituted,
- (14) in article 20,-
 - (a) in clause (a), for the words “Six rupees”, the words “Four rupees and twenty-five paise” shall be substituted,
 - (b) in clause (b), for the words “Six rupees”, the words “Four rupees and twenty-five paise” shall be substituted,
 - (c) in clause (d), in entries (i) and (ii), for the figures and word “0.75 per cent.”, the figure and word “1 per cent.” shall be substituted,
- (15) in article 21, for the words “Twenty rupees”, the words “One hundred rupees” shall be substituted,
- (16) in article 22, for the words “The same duty as is payable on the original subject to a maximum of fifty rupees”, the words “One hundred rupees”, shall be substituted,
- (17) in article 23, for the words “Subject to a maximum of one hundred rupees, four rupees for every Rs.100 or part thereof of the amount of bond”, the words “One hundred rupees” shall be substituted,

(18) in article 24,-

(a) for the words "such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein when such goods exceed in value twenty rupees", the words "when such goods exceed in value one hundred rupees" shall be substituted;

(b) for the words "Twenty rupees", the words "One rupee for every one thousand rupees or part thereof" shall be substituted,

(19) in article 25, for the words "Five hundred rupees", the words "One hundred rupees" shall be substituted,

(20) in article 27,-

(a) in clause (b),—

(i) in entry (i), for the words "Six rupees", the words "Four rupees and twenty-five paise" shall be substituted;

(ii) in entry (ii), for the words "Subject to maximum of two lakhs rupees, two rupees for every hundred rupees or part thereof, for the amount of the further charge secured by such instrument", the following shall be substituted, namely:—

"(a) where the amount of further charge secured by such instrument does not exceed Rs.10,00,00,000/-, subject to maximum of one lakh rupees, twenty-five paise for every hundred rupees or part thereof;

(b) where the amount of further charge secured by such instrument exceeds Rs.10,00,00,000/-, subject to maximum of three lakh rupees, fifty paise for every hundred rupees or part thereof.";

(b) clause (c) shall be deleted,

(21) in article 29, for the words "Subject to maximum of one hundred rupees, six rupees for every Rs. 100 or part thereof of the amount secured", the words "One hundred rupees" shall be substituted,

(22) in article 30, in clause (a), in entry (ii), for the words "Three rupees", the words "Two rupees" shall be substituted,

(23) in article 31, for the words "Two rupees", the words "One rupee for every one thousand rupees or part thereof of the value of the shares" shall be substituted,

- (24) in article 32, for the words "Sixty rupees", the words "One hundred rupees" shall be substituted,
- (25) in article 33, for the words "Fifty rupees", the words "One hundred rupees" shall be substituted,
- (26) in article 34, for the words "Two hundred and fifty rupees", the words "One hundred rupees" shall be substituted,
- (27) in article 35, in clause (a), for the words "One thousand rupees", the words "One hundred rupees" shall be substituted;
- (28) in article 36,-

(a) for clause (b), the following shall be substituted, namely :-

- "(b) when possession of the property or any part of the property comprised in such deed is not given or not agreed to be given, The same duty as is leviable under article 6(1)(a).";

(b) Explanation II shall be deleted,

- (29) in article 37, in clause (a), for the words "Twenty-five paise", the words "Fifty paise" shall be substituted,

- (30) for article 39, the following shall be substituted, namely:-

"39. NOTE OR MEMORANDUM, sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—

(a) of cotton including cotton pods or *Kapas* (Unginned Cotton),

One rupee for every ten thousand rupees or part thereof of the value of cotton at the time of its purchase or, as the case may be, sale.

(b) of bullion or specie,

One rupee for every ten thousand rupees or part thereof of the value of silver, gold or, as the case may be, sovereigns at the time of purchase or, as the case may be, sale.

(c) of oil-seeds,

One rupee for every ten thousand rupees or part thereof of the value of the oil seeds at the time of its purchase or, as the case may be, sale.

- | | |
|--|--|
| (d) of any kind of yarn,
non-mineral oils or spices, | One rupee for every ten thousand rupees or part thereof of the value of such yarn, ground-nut oil, other non-mineral oil or spices at the time of its purchase or, as the case may be, sale. |
| (e) of any other goods exceeding twenty rupees in value, | Nil |
| (f) of any share, scrip, stock, bond, debenture stock or other marketable security of a like nature exceeding twenty rupees in value not being a Government Security | One rupee for every ten thousand rupees or part thereof of the value of the security at the time of its purchase or, as the case may be, sale. |
- (g) of a Government security. One hundred rupees.”,
- (31) in article 41, for the words “Twenty rupees”, the words “One hundred rupees” shall be substituted,
- (32) in article 42, in clause (a), for the words “One rupee”, the words “Five rupees” shall be substituted,
- (33) in article 43, in the proviso, in clauses (a) and (c), for the words “ten rupees”, the words “one hundred rupees” shall be substituted,
- (34) in article 44,—
- (a) in clause (1), for the words “Subject to minimum of five hundred rupees and maximum of five thousand rupees, one rupee for every hundred rupees or part thereof of the amount of the capital of partnership”, the words “Subject to maximum of ten thousand rupees, one rupee for every hundred rupees or part thereof of the amount of the capital of partnership” shall be substituted;
- (b) in clause (2), in sub-clause (b), for the words “Two hundred rupees”, the words “One hundred rupees” shall be substituted;
- (c) in clause (3), in sub-clause (b), for the words “Two hundred rupees”, the words “One hundred rupees” shall be substituted,
- (35) in article 46, for the words “Twenty rupees”, the words “One hundred rupees” shall be substituted,
- (36) in article 47, for the words “Twenty rupees”, the words “One hundred rupees” shall be substituted,

- (37) in article 48, for the portion beginning with the words "Subject to a maximum" and ending with the words "for which the property was mortgaged", the words "One hundred rupees" shall be substituted,
- (38) in article 49, for the portion beginning with the words "Subject to a maximum" and ending with the words "value of the claim", the words "One hundred rupees" shall be substituted,
- (39) in article 51, for the words, letters and figures "Subject to a maximum of sixty rupees, six rupees for every Rs.100 or part thereof of the amount secured", the words "One hundred rupees" shall be substituted,
- (40) in article 52,—
 - (a) under the heading "A- Instrument of (including a deed of dower)-", in the first proviso, for the words "ten rupees", the words "one hundred rupees" shall be substituted;
 - (b) under the heading "B- Revocation of -", in entries (i) and (ii), for the words "twenty rupees", the words "one hundred rupees" shall be substituted,
- (41) article 54 shall be deleted,
- (42) in article 55, for the words "Subject to a maximum of one hundred rupees, the duty with which such lease is chargeable", the words "One hundred rupees" shall be substituted,
- (43) in article 56,—
 - (a) in clause (b), for the portion beginning with the words "The same duty" and ending with the words "a maximum of fifty rupees", the words "One hundred rupees" shall be substituted;
 - (b) in clause (c), for the words "Fifty rupees", the words "One hundred rupees" shall be substituted;
 - (c) in clause (d), for the portion beginning with the words "The same duty" and ending with the words "a maximum of fifty rupees", the words "One hundred rupees" shall be substituted,
- (44) in article 58,—
 - (a) in clause A, for the portion beginning with the words "The same duty" and ending with the words "not exceeding one hundred rupees", the words "One hundred rupees" shall be substituted;
 - (b) in clause B, for the portion beginning with the words "The same duty" and ending with the words "not exceeding fifty rupees", the words "One hundred rupees" shall be substituted,
- (45) article 59 shall be deleted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the Budget proposal contained in the Budget speech of the Chief Minister in the Gujarat Legislative Assembly on the 24th February, 2006.

Dated the 23rd March, 2006.

KAUSHIK PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 24th March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PUBLISHED BY AUTHORITY

Vol. XLVII] THURSDAY, MARCH 23, 2006 / CAITRA 2, 1928

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PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT INFRASTRUCTURE DEVELOPMENT

(AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 20 OF 2006.

A BILL

further to amend the Gujarat Infrastructure Development Act, 1999.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Infrastructure Development (Amendment) Act, 2006.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title and commencement.

Guj. 11 of 1999.

2.

In the Gujarat Infrastructure Development Act, 1999 (hereinafter referred to as "the principal Act"), in section 2 ,-

Amendment of section 2 of Guj. 11 of 1999.

Ex.V-20-1

- (1) after clause (a), the following clause shall be inserted, namely :-

“(aa) "concession" means grant of financial assistance or conferment of right on Government property and public assets to a person other than the State Government, Government agency or specified Government agency, as per the terms specified in the concession agreement ;”;

- (2) after clause (j), the following clause shall be inserted, namely :-

“(jj) "proposal" means a document which may include among others, details of the project, feasibility study or any other study, financial viability analysis and structuring of project and such other information as may be decided by the Board ;”;

- (3) clause (q) shall be deleted.

Amendment of
section 4 of Guj.
11 of 1999.

3. In the principal Act, in section 4, -

- (1) in sub-section (1), clause (b) shall be deleted ;
(2) to sub-section (3), the following proviso shall be added, namely :-

"Provided that if the State Government, Government agency or, as the case may be, specified Government agency, is satisfied with the performance of the developer during the concession period, it may by order, extend the concession period on such terms and conditions as may be mutually agreed.”;

- (3) in sub-section (4), for clause (a), the following clause shall be substituted, namely :-

“(a) The State Government may, by notification in *Official Gazette*, add to, amend or omit therefrom any other nature of agreement in Schedule II and on issue of such notification, the Schedule shall be deemed to have been amended accordingly.”.

Amendment
of section 5
of Guj. 11 of
1999

4. In the principal Act, in section 5, -

- (1) in sub-section (1), -

(a) for the words "as may be prescribed", the words "as may be provided by the regulations" shall be substituted ;

(b) for the word "prescribed", the word "provided" shall be substituted ;

- (2) in sub-section (2), after the word and figures "section 10", the words, figures and letter "or section 10A" shall be inserted.

5. In the principal Act, in section 6, for clause (b), the following clause shall be substituted, namely: -

Amendment of
section 6 of Guj.
11 of 1999.

" (b) financial assistance, either one time or in installments, not exceeding twenty per cent. of the cost of the project ;".

6. In the principal Act, in section 7, for the words " No concession agreement ", the words, figures and letter "Subject to the provisions of section 10A, no concession agreement " shall be substituted.

Amendment of
section 7 of Guj.
11 of 1999.

7. In the principal Act, in the section 8,-

Amendment of
section 8 of Guj.
11 of 1999.

- (1) in sub-section (1), for the words and figures "direct negotiation as provided in section 10", the words, figures and letter "inviting comparative bids as provided in section 10 or by direct negotiation as provided in section 10A" shall be substituted;
- (2) in sub-section (2), for the words " competitive bidding ", the words "competitive bidding, inviting comparative bids " shall be substituted.

8. In the principal Act, for section 9, the following section shall be substituted, namely :-

Substitution of
section 9 of Guj.
11 of 1999.

Selection of person
by competitive
public bidding.

" 9. On the acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall select a developer for the project through competitive public bidding in the manner as may be prescribed."

9. In the principal Act, in section 10,-

Amendment of
section 10 of Guj.
11 of 1999.

- (1) for the existing marginal note, the following marginal note shall be substituted, namely:-

"Inviting comparative bids.";

- (2) for sub-section (1), the following sub-section shall be substituted, namely :-

“(1) Where a proposal for undertaking a project and a proposed concession agreement prepared by a person are submitted to the State Government, the Government agency or a specified Government agency, it may,

(a) consider the proposal and the proposed concession agreement from all aspects (including technical and financial) and if necessary, modify the same in consultation with the person who has submitted the proposal and the proposed concession agreement; and

(b) submit the proposal and the proposed concession agreement to the Board, if –

(i) the cost of the project exceeds the limit provided by regulations under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance from the State Government, the Government agency or the specified Government agency.”;

(3) in sub-section (2), for the words "specified in", the words "prescribed under" shall be substituted.

Insertion of new
section 10A in
Guj. 11 of 1999.

10. After section 10, the following section shall be inserted, namely :-

Selection by
direct
negotiation.

“10A. (1) Notwithstanding anything contained in sections 9 and 10, a person other than the State Government, Government agency or specified Government agency, may submit a proposal and proposed concession agreement for direct negotiation to the State Government, Government agency or the specified Government agency for any of the project specified in Schedule III.

(2) If the State Government, Government agency, or, as the case may be, the specified Government agency is satisfied that the project is of a nature specified in Schedule III, it may,-

(a) consider the proposal from all aspects (including technical and financial) and if necessary modify the same in consultation with the person who has submitted the proposal and the proposed concession agreement, and

(b) submit the proposal and the proposed concession agreement to the Board, if the cost of the project exceeds the limit provided by the regulations.

- (3) On acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, Government agency or, as the case may be, the specified Government agency may enter into a concession agreement with a person who has submitted the proposal under sub-section (1)."

11. In the principal Act, in section 16,-

Amendment of
section 16 of Guj.
11 of 1999.

- (1) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) The State Government may, by notification in the *Official Gazette*, add to, amend or omit therefrom any project in Schedule I or Schedule III which falls within the executive power of the State and on issue of such notification, the Schedule I or, as the case may be, Schedule III shall be deemed to have been amended accordingly.";

- (2) for the marginal note, the following shall be substituted, namely :-

" Power to amend Schedules I and III. "

12. In the principal Act, in section 37, in sub-section (2) -

Amendment of
section 37 of Guj.
11 of 1999.

- (1) clauses (a) and (b) shall be deleted ;
- (2) for clause (c), the following clauses shall be substituted, namely :-

"(c) the matters relating to competitive public bidding, inviting comparative bids and direct negotiation under sub-section (2) of section 8;

(cc) the manner in which the developer for the project shall be selected under section 9;"

Amendment of
section 38 of Guj.
11 of 1999.

13. In the principal Act, in section 38, in sub-section (2), before clause (a), the following clause shall be inserted, namely :-

" (aa) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5 and different amounts of costs for different nature of projects; "

Insertion of
new Schedule
III in Guj. 11
of 1999.

14. In the principal Act, after Schedule II, the following Schedule shall be added, namely:-

" SCHEDULE III

(See sub-section (1) of section 10A)

PROJECTS OF SPECIAL NATURE

1. A project which is innovative or involves proprietary technology or franchise which is exclusively available with the person globally.
2. A project wherein competitive public bidding as provided in section 9 has failed to select a developer.
3. A project to provide social services to the people including community services and public utilities.
4. An infrastructure project which is an essential link for another bigger infrastructure project owned or operated by the same person."

STATEMENT OF OBJECTS AND REASONS

The State Government, a Government agency or a specified Government agency have been empowered to provide to a person, the assistance in the form of subsidy not exceeding fifteen per cent. of the cost of project. Instead of granting subsidy, it is proposed to grant the concession and therefore the definition of 'subsidy' is proposed to be deleted and the new definitions of 'concession' and 'proposal' are proposed to be inserted in section 2 of the Gujarat Infrastructure Development Act, 1999.

Sub-section (3) of section 4 provides that no concession agreement shall provide for transfer of a project by a developer later than thirty-five years from the date of agreement. It is proposed in the proviso to be added in sub-section (3) that where the performance of the developer is satisfactory during the concession period, such concession period may be extended on such terms and conditions as may be mutually agreed upon by both the parties.

In order to enable the State Government to add to, amend or omit the nature of agreement in Schedule II and to add, amend or omit the project in Schedules I and III, it is proposed to amend clause (a) of sub-section (4) of section 4 and sub-section (1) of section 16 of the said Act.

The existing sub-section (1) of section 5 empowers the State Government to prescribe by rules, the amount of cost of project exceeding which the proposal shall be submitted to the Board. It is proposed to amend sub-section (1) of section 5 so as to empower the Board to provide by regulations the amount of cost of project exceeding which the proposal shall be submitted to the Board.

Section 9 provides for the procedure for selection of a developer of the project through the competitive public bidding. It is proposed to substitute section 9 with a view to empower the State Government to prescribe by rules, the manner in which the State Government, the Government agency or the specified Government agency may select the developer for the project through the competitive public bidding.

The proposed amendment in sub-section (1) of section 10 empowers the person to submit the proposal for undertaking a project and the concession agreement irrespective of whether any such proposal has been prepared by the State Government, a Government agency or a specified Government agency.

The proposed new section 10A empowers the State Government, Government agency and the specified Government agency to consider the proposal and proposed concession agreement for the projects specified in Schedule III with a view to attract the investor for submission of innovative

proposal, proposal for social services linkage proposals and the projects for which the competitive bidding has failed to select a developer.

Amendment in section 37 and 38 are consequential to the amendment suggested in sections 4, 5 and 9.

The proposed new Schedule III specify the projects of special nature for which the selection by direct negotiation is permitted under new section 10A.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

ANIL PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respect, namely :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.- Clause (a) of sub-section (4) of section 4 proposed to be substituted by this clause empowers the State Government to add, amend or omit, by notification in the *Official Gazette*, any other nature of agreement in Schedule II.

Clause 4.- Sub-section (1) of section 5 proposed to be amended by this clause empowers the Board to provide by regulations, the amount of cost of project exceeding which proposal shall be submitted to the Board.

Clause 8.- Section 9 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the manner in which the developer for the project shall be selected through the competitive public bidding.

Clause 11.- Sub-section (1) of section 16 proposed to be substituted by this clause empowers the State Government to add, amend or omit, by notification in the *Official Gazette*, any project in Schedules I and III.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 23rd March, 2006.

ANIL PATEL.

By order and in the name of the Governor of Gujarat

Gandhinagar,
Dated the 23rd March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] FRIDAY, MARCH 24, 2006 / CAITRA 3, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE BOMBAY RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) (GUJARAT REPEAL) BILL, 2006.

GUJARAT BILL NO. 21 OF 2006.

A BILL

to repeal the Bombay Relief Undertakings (Special Provisions) Act, 1958, in its application to the State of Gujarat.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. This Act may be called the Bombay Relief Undertakings (Special Provisions) (Gujarat Repeal) Act, 2006.
2. The Bombay Relief Undertakings (Special Provisions) Act, 1958, in its application to the State of Gujarat is hereby repealed.

Short title.

Repeal.

Bom. XCVI
of 1958.

STATEMENT OF OBJECTS AND REASONS

The Bombay Relief Undertakings (Special Provisions) Act, 1958, is a temporary provision for providing relief to certain sick industrial undertakings and to prevent unemployment or to provide unemployment relief, but it has not fulfilled the main object of the Act.

The important provisions of this Act for the benefits of workers are being taken care of under the Sick Industrial Companies (Special Provisions) Act, 1985. It is, therefore, considered necessary to repeal the aforesaid Act.

This Bill seeks to repeal the said Act of 1958.

Dated the 23rd March, 2006.

MULUBHAI BERA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 24th March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT AGRICULTURAL PRODUCE MARKETS (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 22 OF 2006.

A BILL

further to amend the Gujarat Agricultural Produce Markets Act, 1963.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Agricultural Produce Markets (Amendment) Act, 2006. Short title.

2. In the Gujarat Agricultural Produce Markets Act, 1963 (hereinafter referred to as "the principal Act"), in section 2, in clause (i), for the words, "agriculture, horticulture and animal husbandry", the words "agriculture and horticulture" shall be substituted. Amendment of section 2 of Guj. XX of 1964.

Guj. XX of 1964.

Amendment of
section 11 of
Guj. XX of
1964.

3. In the principal Act, in section 11, in sub-section (1), in clause (i), for the brackets and words "(other than co-operative marketing societies)", the brackets and words "(other than co-operative marketing societies and milk produce co-operative societies)" shall be substituted.

Amendment of
Schedule to Guj.
XX of 1964.

4. In the principal Act, in the Schedule, the heading "IX. Animal Husbandry Products" and the items specified in entries (1) to (9) thereunder shall be deleted.

STATEMENT OF OBJECTS AND REASONS

Since the animal husbandry products are not agricultural produce and it is not the produce from the land, it is considered necessary to delete the animal husbandry products from the definition of the agricultural produce in section 2 and also from the Schedule, appended to the Gujarat Agricultural Produce Markets Act, 1963.

Incidentally, clause (i) of sub-section (1) of section 11 of the said Act is also amended accordingly.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

Dated the 24th March, 2006. BHUPENDRASINH CHUDASMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 24th March, 2006.

S. S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT PROFESSIONAL CIVIL ENGINEERS BILL, 2006.

GUJARAT BILL NO. 23 OF 2006.

A BILL

to provide for registration of Professional Civil Engineers and for matters connected therewith.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:--

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Gujarat Professional Civil Engineers Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires—

(a) “Council” means the Gujarat Council of Professional Civil Engineers established under section 3;

(b) “member” means a member of the Council;

(c) “President” means the President of the Council;

(d) “professional civil engineer” means a person whose name is for the time being entered in the register;

(e) “recognised engineering institution” means any University established by law in India or other institution in India or outside India which imparts education in engineering and confers a degree or diploma in engineering and is by notification in the *Official Gazette*, recognised by the Council in consultation with the State Government;

(f) “register” means the register of professional civil engineers maintained under section 16;

(g) “registrar” means the registrar appointed under clause (a) of sub-section (1) of section 11;

(h) “regulation” means a regulation made under section 35 by the Council;

(i) “rules” means a rules made under section 34 by the State Government;

(j) “Vice-President” means the Vice-President of the Council.

CHAPTER II

GUJARAT COUNCIL OF PROFESSIONAL CIVIL ENGINEERS

3. (1) With effect from such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf, there shall be established a Council to be called the Gujarat Council of Professional Civil Engineers.

Establishment
and composition
of Council.

(2) The Council shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold or dispose of property, both movable and immovable and to contract and shall, by the said name sue or be sued.

(3) The Council shall consist of the following members, namely:--

(a) five professional civil engineers elected by professional civil engineers from amongst themselves,

(b) (i) one person to be appointed by the State Government in Urban Development and Urban Housing Department from amongst the engineers employed for not less than ten years in the Municipal Corporations of cities in the State constituted under the Bombay Provincial Municipal Corporations Act, 1949, *ex-officio*,

(ii) one person to be appointed by the State Government in the Roads and Buildings Department from amongst the engineers not below the rank of Chief Engineer employed in the Department and dealing with the subject of buildings, *ex-officio*,

(iii) one person to be appointed by the State Government in the Narmada, Water Resources and Water Supply and Kalpsar Department, from amongst the engineers not below the rank of Chief Engineer, employed in the Department *ex-officio*,

(iv) Chief Town Planner to the Government of Gujarat,
ex-officio,

(c) one person to be appointed by the Director of Technical Education, Gujarat State, from amongst the professors in the faculties of the civil engineering and applied mechanics of the Universities established by law in the State and the professors of colleges affiliated to such Universities, imparting education in civil engineering, *ex-officio*,

(d) two persons to be co-opted by the Council from among professional civil engineers.

(4) Notwithstanding anything contained in clause (a) of sub-section (3), the State Government may, pending the preparation of the register, nominate to the first Council, in consultation with the Institution of Engineers (India), persons who are eligible to appear in the examination for registration under section 14 and the persons so nominated shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the *Official Gazette*, specify.

(5) Notwithstanding anything contained in clause (d) of sub-section (3), the State Government may, pending preparation of the register, co-opt to the first Council persons who are eligible to appear in the examination for registration under section 14 and the persons so co-opted shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the *Official Gazette*, specify.

President and
Vice-President of
Council.

4. (1) The President and the Vice-President of the Council shall be elected by the members of the Council other than co-opted members from amongst themselves:

Provided that on the first constitution of the Council and until the President is elected, a member of the Council nominated by the State Government in this behalf shall discharge the functions of the President.

(2) An elected President or Vice-President of the Council shall hold office for a term of four years or till he ceases to be a member of the Council, whichever is earlier, but subject to his being a member of the Council, he shall be eligible for re-election:

Provided that—

(a) the President or the Vice-President may, by writing under his hand addressed to the Vice-President or the President, as the case may be, resign his office;

(b) the President or the Vice-President shall, notwithstanding the expiry of his term of four years, continue to hold office until his successor enters upon office.

(3) The President and the Vice-President shall exercise such powers and discharge such duties as may be prescribed by regulations.

5. (1) Elections under this Chapter shall be conducted in such manner as may be prescribed by rules.

Mode of elections.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the State Government by notification in the *Official Gazette*, in this behalf, and the decision of the Tribunal shall be final and shall not be called in question in any court:

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.

Term of office
and casual
vacancies.

6. (1) (a) Subject to the provisions of this section, an elected member shall hold office for a term of three years from the date of his election or until his successor has been duly elected, whichever is later.

(b) A member, co-opted under clause (d) of sub-section (3) of section 3, shall hold office for such term, not exceeding four years, as the Council may determine.

(2) An elected, nominated or co-opted member may, at any time, resign his membership by writing under his hand addressed to the President, or in his absence, to the Vice-President, and the seat of such member shall thereupon become vacant.

(3) A member shall be deemed to have vacated his seat—

(i) if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(ii) if he ceases to be a professional civil engineer referred to in clause (a) or (d) of sub-section (3) of section 3 or if he ceases to be a professor referred to in clause (c) of sub-section (3) of section 3.

(4) A casual vacancy in the Council shall be filled by fresh election, nomination or, as the case may be, co-option and the person so elected or nominated or co-opted to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated or co-opted.

(5) Members of the Council shall be eligible for re-election or re-nomination or re-co-option so however as not to exceed two consecutive terms.

7. (1) No act or proceeding of the Council shall be invalid merely by reason of—

Validity of act or proceeding of Council, not to be invalidated by reason of vacancy, etc.

- (a) any vacancy in, or defect in the constitution of, the Council, or
- (b) any defect in the election or nomination or co-option of a person acting as a member thereof, or
- (c) any irregularity in procedure not affecting the merits of the case.

8. A person shall not be eligible for election or nomination or co-option as a member of the Council if he --

Disqualifications.

- (a) is an undischarged insolvent; or
- (b) has been convicted by a Court in India for any offence and sentenced to imprisonment for not less than two years, and shall continue to be ineligible for a further period of five years since his release; or
- (c) is of unsound mind and stands so declared by a competent court.

9. (1) The Council shall meet at least once in every four months at such time and such place and shall observe such rules of procedure with regard to the transaction of business at its meetings as may be prescribed by regulations.

Meetings of Council.

(2) Unless otherwise prescribed by regulations, three members of the Council other than co-opted members shall form a quorum, and all the questions in a meeting of the Council shall be decided by a majority of the members present and voting.

(3) In the case of an equal division of votes, the President, or in his absence, the Vice-President or, in the absence of both, the member presiding over the meeting, shall have and exercise a second or casting vote.

(4) A co-opted member shall have the right to speak in and otherwise to take part in the proceedings of the Council but shall not be entitled to vote.

Fees and
allowances to
President, Vice-
President and
members.

10. The President, the Vice-President and other members of the Council shall be entitled to such fees and allowances as the Council may, with the previous sanction of the State Government, fix in this behalf.

Officers and
other employees
of Council.

11. (1) The Council shall—

- (a) appoint a Registrar who shall act as its Secretary and who may also act, if so decided by the Council, as its treasurer;
- (b) appoint such other officers and employees as the Council deems necessary to enable it to carry out its functions under this Act; and
- (c) with the previous sanction of the State Government, fix the pay and allowances and other conditions of service of officers and other employees of the Council.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), for the first three years from the first constitution of the Council, the Registrar of the Council shall be a person appointed by the State Government who shall hold office during the pleasure of the State Government.

(3) All the persons appointed under this section shall be the employees of the Council.

Fund of Council.

12. (1) There shall be established a Fund, under the management and control of the Council, consist of all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the Fund in any Government security or in any other security approved by the State Government.

(3) The Council shall keep proper accounts of the Fund distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by an auditor to be appointed annually by the Council.

(5) As soon as may be practicable at the end of each financial year, but not later than the thirtieth day of September of the year next following, the Council shall cause to be published in the *Official Gazette*, a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the State Government.

(6) The Fund shall consist of—

- (a) all moneys received from the State Government by way of grant;
- (b) any sums received under this Act whether by way of fee or otherwise.

(7) All moneys standing at the credit of Council, which cannot immediately be applied, shall be deposited in any bank specified in the Second Schedule to the Reserve Bank of India Act, 1934.

13. Subject to the provisions of this Act, the Council shall perform the following functions, namely:--

Functions of Council.

- (a) to manage the property of the Council;
- (b) to manage and control the fund established under sub-section (1) of section 12;
- (c) to keep proper accounts of the fund;
- (d) to hold examinations prescribed by regulations;
- (e) to cause to prepare and maintain a register of professional civil engineers;
- (f) to grant or refuse certificate of practice;

- (g) to levy and collect fees from examinees, civil engineers applying for registration, professional civil engineers and others;
- (h) to remove from the register the names of professional civil engineers and to restore to the register the names of professional civil engineers which have been removed ;
- (i) to prescribe standards of professional conduct and etiquette and code of ethics for professional civil engineers;
- (j) to exercise disciplinary powers conferred by this Act; and
- (k) to perform such other functions as are laid down in this Act and in the rules and regulations.

CHAPTER III

REGISTRATION OF PROFESSIONAL CIVIL ENGINEERS

Registration of
Professional
Civil Engineers.

14. (1) A person –

- (a) on whom a Master degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than three years after such conferment, or
- (b) on whom a Bachelor degree in Civil Engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than four years after such conferment, or
- (c) on whom a diploma in civil engineering is conferred by a recognised engineering institution and who possesses experience of working as a civil engineer for a period of not less than six years after such conferment, or

- (d) who possesses such other qualification as is recognised by the Council as being equivalent to the qualification mentioned in clause (a) or (b) and experience of working as a civil engineer for such period as may be prescribed by regulations,

shall be eligible to appear for such examination as may be prescribed by regulations, on payment of such fees as may be prescribed by rules, and held by the Council and on passing such examination, such person shall be entitled to have his name entered in the register.

- (2) Notwithstanding anything contained in sub-section (1), a person, who, having possessed any of the qualifications mentioned in clauses (a) to (d) of that sub-section, possesses at the commencement of this Act experience of working as a civil engineer for a period of not less than fifteen years, shall be entitled to have his name entered in the register during the period of two years from such commencement if the Council, on verification of his qualifications and experience in such manner as may be prescribed by regulations, is satisfied about the same.
- (3) Every person entitled under sub-section (1) or (2) to have his name entered in the register shall have his name entered in the register on application being made and granted in such manner as may be prescribed by regulations and on payment of such fees not exceeding twenty thousand rupees as may be prescribed by rules.
- (4) Any person whose application to have his name entered in register is rejected may, within three months of the date of such rejection of the application, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.
- (5) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of practice in such form as may be prescribed by rules.

Certificate of
practice.

15. (1) No person whose name is entered in the register shall be entitled to practice as a professional civil engineer unless he has obtained from the Council a certificate of practice.

(2) Every such person shall pay such annual fee not exceeding twenty thousand rupees as may be prescribed by rules and such fee shall be payable on or before the 1st day of April in each year.

Preparation and
maintenance of
register.

16. (1) The Council shall, upon its constitution, cause to prepare a register of professional civil engineers in the State and maintain the same in accordance with the provisions of this Act.

(2) The register shall include the following particulars, namely:--

- (a) the full name with date of birth, nationality and residential and professional address of the professional civil engineer;
- (b) the date on which his name is registered in, the register;
- (c) his qualifications and the date on which he obtained those qualifications and the authority which conferred it; and
- (d) such further particulars as may be prescribed by rules.

Removal of
name from
Register.

17. (1) The Council may, by order, remove from the register the name of any professional civil engineer--

- (a) from whom a request has been received to that effect, or
- (b) who has died since the last publication of the register.

(2) Subject to the provisions of this section, the Council may order that the name of any professional civil engineer shall be removed from the register where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make--

- (a) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact; or
- (b) that he has been convicted of any offence which, in the opinion of the Council, involves moral turpitude or has been guilty of any infamous conduct in any professional respect or has violated standards of professional conduct and etiquette or the code of ethics which, in the opinion of the Council, renders him unfit to be kept in the register;
- (c) that he is an undischarged insolvent; or
- (d) that he has been adjudged by a competent court to be of unsound mind.

(3) An order under sub-section (2) may direct that any professional civil engineer whose name is ordered to be removed from the register shall be ineligible for registration under this Act either permanently or for such period as may be specified.

(4) A person aggrieved by an order under sub-section (2) of this section or sub-section (2) of section 23 may, within sixty days from the communication to him of such order, appeal to the State Government and the decision of the State Government in such appeal shall be final and shall not be called in question in any court.

(5) An order under sub-section (2) shall not take effect until the expiry of three months from the date thereof or until an appeal under sub-section (4) is disposed of, whichever date is later.

18. A person whose name has been removed from the register under sub-section (1) or sub-section (2) of section 17, or sub-section (2) of section 23, or where such person is dead, his legal representative, as defined in clause (11) of section 2 of Code of Civil Procedure, 1908, shall forthwith surrender his

Surrender of
certificate.

certificate of practice to the Registrar and the name so removed shall be published in the *Official Gazette*.

Restoration of
name to register.

19. The Council may, at any time for reasons appearing to it to be sufficient and subject to the approval of the State Government, order that upon payment of such fee as may be prescribed by rules, the name of the person removed from the register shall be restored thereto.

Issue of
duplicate
certificates.

20. Where it is shown to the satisfaction of the Registrar that a certificate of practice has been lost or destroyed, the Registrar may, on payment of such fee as may be prescribed by rules, issue a duplicate certificate in such form as may be prescribed by rules.

Printing of
register.

21. As soon as may be after the 1st day of April in each year, the Registrar shall cause to print copies of the register as it stood on the said date and such copies shall be made available to persons applying therefore on payment of such fee as may be prescribed by rules and shall be evidence that on the said date the persons whose names are entered therein were professional civil engineers.

CHAPTER IV MISCONDUCT

Professional
conduct.

22. (1) The Council may by regulations prescribe standards of professional conduct and etiquette and a code of ethics for professional civil engineers.

(2) The regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provisions shall have effect notwithstanding anything contained in any law for the time being in force.

23. (1) When on receipt of a complaint made to it, the Council is *prima facie* of opinion that any professional civil engineer has been guilty of professional misconduct which, if proved, would render him unfit to practice as a professional civil engineer, the Council may hold an inquiry in such manner as may be prescribed by rules.

Procedure in
inquiries relating
to misconduct.

(2) If after holding the inquiry under sub-section (1) and giving him an opportunity of being heard, the Council is of the opinion that the professional civil engineer has been guilty of professional misconduct, it may, by order, reprimand the said professional civil engineer or suspend him from practice as a professional civil engineer or remove his name from the register or pass such other order as it thinks fit.

CHAPTER V MISCELLANEOUS

24. (a) If any person whose name is not for the time being entered in the register, falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, or

Penalty for falsely
claiming to be
registered.

(b) if any person being registered as a professional civil engineer but not having a certificate of practice represents that he is in practice or practices as a professional civil engineer,

he shall be punishable with fine which may extend to five thousand rupees.

25. (1) After the expiry of six months from the date of the preparation of the register, no person other than a registered professional civil engineer, or a firm of professional civil engineers shall use the title and style of professional civil engineer.

Prohibition against
use of title.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five lakh rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten lakh rupees or with both.

Unqualified persons not to certify engineering designs.

26. (1) Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, no person shall certify an engineering design of-

- (a) a building the plinth area of which exceeds one hundred and forty square meters; or
 - (b) a building the height of which exceeds the normal height of a building having the ground floor and first floor; or
 - (c) a building which does not have load bearing type masonry structure; or
 - (d) a building which is a part of a larger housing project comprising not less than three buildings, notwithstanding the plinth area of such building is one hundred and forty square meters, or less than one hundred and forty square meters;
- unless he is a professional civil engineer.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to five thousand rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding ten thousand rupees or with both.

Failure to surrender certificate of practice.

27. If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of practice, he shall be punishable with fine which may extend to fifty thousand rupees, and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees for each day after the first during which he has persisted in the failure.

Cognisance of offences.

28. (1) No Court shall take cognisance of any offence punishable under this Act, except upon complaint made by order of the Council or a person authorised in this behalf by the Council.

(2) No Magistrate other than a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

29. Notwithstanding anything contained in any law for the time being in force, after the expiry of two years from the commencement of this Act, the State Government or any of its officers or a Local Authority or any of its officers or an Area Development Authority or Urban Area Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976 or any of its officers shall not permit construction of a building falling under any of the clauses (a) to (d) of sub-section (1) of section 26 unless the engineering design of the building is certified by a professional civil engineer.

Authority not to permit construction unless engineering design is certified by professional civil engineer.

30. (1) The Council shall furnish such reports, copies of the minutes and other information to the State Government as the Government may require.

Information to be furnished by Council and publication thereof.

(2) The State Government may publish, in such manner as it may think fit, any report, copy or other information furnished to it under this section.

31. No suit, prosecution or other legal proceeding shall lie against the State Government, the Council or any member of the Council, or officers and other employees of the Council for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Protection of action taken in good faith.

32. The members of the Council and officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members of Council and officers and employees to be public servants.

33. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provision, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

Power to make
rules.

34. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the manner in which the elections under Chapter II shall be conducted, the terms and conditions of service of the member of the Tribunal appointed under sub-section (2) of section 5 and the procedure to be followed by the Tribunal;

(b) the fee to be paid under sub-sections (1) and (3) of section 14, sub-section (2) of section 15 and sections 19, 20 and 21;

(c) the form in which a certificate of practice is to be issued under sub-section (5) of section 14;

(d) further particulars to be included in the register under clause (d) of sub-section (2) of section 16;

(e) the form in which a duplicate certificate is to be issued under section 20;

(f) the fee for supplying printed copies of the register under section 21;

(g) the manner in which the Council shall hold an inquiry under sub-section (1) of section 23;

(h) any other matter which is to be or may be provided by rules under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

35. (1) The Council may, with the approval of the State Government, make regulations not inconsistent with the provisions of this Act or the rules made thereunder, to carry out the purposes of this Act.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the management of the property of the Council;
- (b) the powers and duties of the President and the Vice-President under sub-section (3) of section 4;
- (c) the summoning and holding of meetings of the Council, the times and places at which such meetings shall be held; the conduct of business there at and the number of persons necessary to constitute a quorum under section 9;

- (d) the period of experience of working as a civil engineer to be possessed by a person for being eligible to appear at the examination under clause (d) of sub-section (1) of section 14;
- (e) the examination in which persons referred to in clauses (a) to (d) of the said sub-section (1) of section 14 shall be eligible to appear;
- (f) the manner in which the qualifications and experience shall be verified by the Council under sub-section (2) of section 14;
- (g) the manner in which an application is to be made and granted under sub-section (3) of section 14;
- (h) the standards of professional conduct and etiquette and a code of ethics to be observed by the professional civil engineer under section 22;
- (i) any other matter which is to be or may be provided by regulations under this Act.

STATEMENT OF OBJECTS AND REASONS

On account of the rapid urbanisation in the State, the building construction activity has expanded rapidly with inadequate regulation. A large variety of buildings, many of which are of extreme complexity and magnitude, like multi-storied office buildings, factory buildings, residential houses, are being constructed each year. With the increase in the building activity, unqualified persons are undertaking the design and the construction of buildings which are often unsafe. This was noticed in the areas of the State where the earthquake took place on 26th January 2001. The loss of human life could have been avoided if the design and construction of buildings had been safe. There is, therefore, need for statutory regulation to protect the general public from unqualified persons working as civil engineers. For that purpose, it is proposed to create a body corporate by the name of the Gujarat Council of Professional Civil Engineers which would register the professional civil engineers. Initially the persons who, having possessed a qualification in civil engineering at the commencement of the legislation and experience of working as civil engineer for a period of not less than fifteen years, would be registered as professional civil engineers. Subsequently, only persons, who have requisite qualifications and experience in civil engineering and who have passed the examination held by the Council, would be registered as professional civil engineers. A person, who is registered as a professional civil engineer, shall be issued a certificate of practice by the Council. A person, who does not hold a certificate of practice, shall not be entitled to practice as a professional civil engineer. It shall be unlawful for a person to practice as a professional civil engineer unless he possesses a certificate of practice. This Bill seeks to achieve the aforesaid object.

The following notes on clauses explain, in brief, the important provisions of the Bill: -

Clause 3.-- This clause provides for establishment and composition of the Gujarat Council of Professional Civil Engineers.

Clause 4.-- This clause provides for the President and the Vice-President of the Council.

Clause 5. -- This clause provides for mode of elections of certain members of the Council.

Clause 6. -- This clause provides for the term of office and casual vacancies.

Clause 9. -- This clause provides for meetings of the Council.

Clause 10. -- This clause provides for the fees and allowances to President, Vice-President and the members of the Council.

Clause 11. -- This clause provides for the officers and the employees of the Council.

Clause 12. -- This clause provides for the finance of the Council.

Clause 13. -- This clause provides for the functions of the Council.

Clause 14. -- This clause provides for Registration of Professional Civil Engineer.

Clause 15. -- This clause provides for the certificate of practice issued to the Professional Civil Engineer.

Clause 16. -- This clause provides for preparation and maintenance of register.

Clause 17. -- This clause provides for removal of a name of Professional Civil Engineer from the register.

Clause 18. -- This clause provides for surrender of certificate of practice in certain circumstances.

Clause 19. -- This clause provides for restoration of a name of Professional Civil Engineer in the register.

Clause 22. -- This clause provides for professional conduct.

Clause 23. -- This clause provides for procedure in inquiry relating to misconduct.

Clause 24. -- This clause provides for penalty for falsely claiming to be registered.

Clause 25. -- This clause prohibits use of title by a person other than registered professional civil engineer and provides for penalty for contravention of that provision.

Clause 26. -- This clause prohibits unqualified persons from certifying engineering designs.

Clause 27. -- This clause provides for penalty for failure to surrender certificate of practice.

Clause 29. -- This clause prohibits an authority from permitting construction unless engineering design is certified by a professional civil engineer.

Clause 33. -- This clause provides for power to remove difficulties.

Clause 34. -- This clause provides for power of the State Government to make rules.

Clause 35. -- This clause provides for power of the Council to make regulations.

INDRAVIJAYSINH JADEJA

FINANCIAL MEMORANDUM

This Bill, if enacted and brought into force, would involve the following expenditure from the Consolidated Fund of the State.

Sub-clause (1) of *clause 3*, of the Bill, empowers to establish the Gujarat Professional Civil Engineers Council. *Sub-clauses (3) (b) (i) to (iv)* and *sub-clause (3) (c) of clause 3* empower the State Government to appoint the officers of the State Government as the *ex-officio* members of the Council. *Clause 10* entitles fees and allowances to the President and Vice-President of the Council. *Sub-clause (1) (a) to (c)* and *sub-clause (2) of clause 11* entitles the Council to appoint Registrar, other officers and employees and to fix their pay and allowances. The *sub-clause (6) of clause 12* provides that funds of the Council shall consist of all moneys received from the State Government by way of grant.

It is estimated that Council shall become self-reliant after four years. The recurring expenditure including TA/DA and fees of the Council members, allowances of Registrar, office establishment including hiring of office space and personnel, cost for conducting examination, etc. is estimated Rs. fifteen lakhs per annum. Non-recurring expenditure on items such as office equipments, furniture, etc. is estimated as approximately Rs. five lakhs in the first year. Therefore, the provisions of this Bill, if enacted and brought into force, would involve expenditure from the Consolidated Fund of the State to that extent.

INDRAVIJAYSINH JADEJA

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely: -

Clause 1.-- Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3.-- (i) Sub-clause (1) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date with effect from which there shall be established a council to be called the Gujarat Council of Professional Civil Engineers;

(ii) Sub-clause (4) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the period for which the persons nominated under that sub-clause shall hold office.

(iii) sub-clause (5) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the period for which the persons co-opted under that sub-clause shall hold office.

Clause 4.-- Sub-clause (3) of this clause empowers the Council to prescribe by regulations the powers to be exercised and duties to be discharged by the President and the Vice-President.

Clause 5.-- (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which elections shall be conducted.

(ii) sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, a tribunal to which a dispute relating to election shall be referred.

Clause 9.-- Sub-clause (1) of this clause empowers the Council to prescribe by regulations the time and place of the meeting and the rules of procedure in regard to transaction of business at its meetings.

Clause 14.-- (i) Paragraph (d) of sub-clause (1) of this clause empowers the Council to prescribe by regulations the period of experience of working as a civil engineer to be possessed by a person for being eligible to appear at an examination;

(ii) sub-clause (1) of this clause empowers the Council to prescribe by regulations the examination for which a person may appear and empowers the State Government to prescribe by rules the fees to be paid for such examination;

(iii) sub-clause (2) of this clause empowers the Council to prescribe by regulations the manner in which qualifications and experience shall be verified by it;

(iv) sub-clause (3) of this clause empowers the Council to prescribe by regulations, the manner in which an application by a person to have his name entered shall be made and granted and empowers the State Government to prescribe by rules, the fees to be paid therefore;

(v) sub-clause (5) of this clause empowers the State Government to prescribe by rules the form in which a certificate of practice shall be issued

Clause 15.-- Sub-clause (2) of this clause empowers the State Government to prescribe by rules the annual fee to be paid by a person.

Clause 16.-- Paragraph (d) of sub-clause (2) of this clause empowers the State Government to prescribe by rules, the further particulars which the register shall include.

Clause 19.-- This clause empowers the State Government to prescribe by rules, the fees to be paid for restoration of name in the register.

Clause 20.-- This clause empowers the State Government to prescribe by rules, the fees to be paid for issue of a Duplicate Certificate and the form in which it may be issued.

Clause 21.-- This clause empowers the State Government to prescribe by rules, the fees to be paid for printed copies of the register.

Clause 22.-- This clause empowers the Council to prescribe by regulations, the standards of professional conduct and etiquette and the code of ethics for professional civil engineers.

Clause 23.-- Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the manner in which the Council may hold inquiry.

Clause 33.-- Sub-clause (1) of this clause empowers the State Government to make such provisions by an order published in the *Official Gazette*, for removing difficulty arising in giving effect to the provisions of the Act.

Clause 34.-- This clause empowers the State Government to make, by notification in the *Official Gazette*, rules to carry out the purposes of the Act generally and in particular for all or any of the matters specified therein.

Clause 35.-- This clause empowers the Council to make regulations generally for carrying out the purposes of the Act and in particular to provide for matters specified therein.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 24th March, 2006.

INDRAVIJAYSINH JADEJA.

By order and in the name of the Governor of Gujarat

Gandhinagar,
Dated the 24th March, 2006.

S. S. PARMAR,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] FRIDAY, MARCH 24, 2006 / CAITRA 3, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART V

Bills Introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT APPROPRIATION BILL, 2006.

GUJARAT BILL NO. 24 OF 2006.

A BILL

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2007.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2006.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of thirty-seven thousand eight hundred ten crore, seventeen lakhs, ninety-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2006-07 in respect of the services and purposes specified in column 2 of the Schedule.

Withdrawal of
Rs.
3,78,10,17,98,000
from and out of
the Consolidated
Fund of the
State of Gujarat
for the financial
year 2006-2007.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appropriation.

SCHEDULE

(see sections 2 and 3)

No. of Vote / Appropriation	Services and Purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2		Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	115557000		115557000
2	Agriculture	Revenue	4085105000		4085105000
		Capital	96750000		96750000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	560470000		560470000
		Capital	10000		10000
4	Animal Husbandry and Dairy Development	Revenue	906600000		906600000
5	Co-operation	Revenue	448031000		448031000
		Capital	150499000		150499000
6	Fisheries	Revenue	615045000		615045000
		Capital	50000000		50000000
7	Other Expenditure pertaining to Agriculture and Cooperation Department	Capital	10910000		10910000
8	Education Department	Revenue	31850000		31850000
9	Education	Revenue	44020038000	1331620000	45351658000
		Capital	1332233000		1332233000
10	Other Expenditure pertaining to Education Department	Revenue	12040000		12040000
		Capital	234045000		234045000

1	2	3	Rs.	Rs.	Rs.
11	Energy and Petro-Chemicals Department	Revenue	21638000		21638000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	62795000		62795000
13	Energy Projects	Revenue	17886106000		17886106000
		Capital	5629770000		5629770000
14	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	1500000		1500000
		Capital	1200000		1200000
15	Finance Department	Revenue	71500000		71500000
		Capital	900000		900000
16	Tax Collection Charges (Finance Department)	Revenue	867414000		867414000
17	Treasury and Accounts Administration	Revenue	418765000		418765000
18	Pension and Other Retirement Benefits.	Revenue	16233150000	1000000	16234150000
19	Other Expenditure pertaining to Finance Department	Revenue	12695831000		12695831000
		Capital	2020595000	100000	2020695000
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue		67942950000	67942950000
		Capital		33793333000	33793333000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	82285000		82285000

1	2	3		
		Rs.	Rs.	Rs.
22	Civil Supplies	Revenue	1363825000	1363825000
23	Food	Revenue	141305000	141305000
		Capital	6800000	6800000
24	Other Expenditure pertaining to Food, Civil Supplies and Consumer Affairs	Capital	3100000	3100000
25	Department Forest and Environment	Revenue	27000000	27000000
26	Department Forest	Revenue	1261575000	1261575000
		Capital	830100000	830100000
27	Environment	Revenue	31000000	31000000
28	Other Expenditure pertaining to Forest and Environment	Capital	7160000	7160000
29	Governor	Revenue	25330000	25330000
30	Council of Ministers	Revenue	31081000	31081000
31	Election	Revenue	243509000	243509000
32	Public Service Commission	Revenue	10070000	26600000
33	General Administration Department	Revenue	255094000	255094000
34	Economic Advice and Statistics	Revenue	76785000	76785000
35	Other Expenditure pertaining to General Administration Department	Revenue	2262675000	2025000
		Capital	14470000	2264700000
				14470000

1	2		3		
			Rs.	Rs.	Rs.
36	State Legislature	Revenue	108030000	1584000	109614000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	3107000		3107000
38	Health and Family Welfare Department	Revenue	80300000		80300000
39	Medical and Public Health	Revenue	8224219000		8224219000
		Capital	245379000		245379000
40	Family Welfare	Revenue	1801684000		1801684000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	1400000		1400000
		Capital	11000000		11000000
42	Home Department	Revenue	126778000		126778000
43	Police	Revenue	8366273000		8366273000
44	Jails	Revenue	296499000		296499000
45	State Excise	Revenue	51145000		51145000
46	Other Expenditure pertaining to Home Department	Revenue	466228000	300000	466528000
		Capital	1839770000		1839770000
47	Industries and Mines Department	Revenue	58786000		58786000
48	Stationery and Printing	Revenue	359948000		359948000
49	Industries	Revenue	2338982000		2338982000
		Capital	1258750000		1258750000

1	2		3		
			Rs.	Rs.	Rs.
50	Mines and Minerals	Revenue	232389000		232389000
51	Tourism	Revenue	1047039000		1047039000
52	Other Expenditure pertaining to Industries and Mines	Revenue	558950000		558950000
	Department	Capital	16010000		16010000
53	Information and Broadcasting	Revenue	5675000		5675000
54	Department Information and Publicity	Revenue	239390000		239390000
55	Other Expenditure pertaining to Information and Broadcasting	Revenue	31380000		31380000
	Department	Capital	5100000		5100000
56	Labour and Employment	Revenue	34520000		34520000
57	Department Labour and Employment	Revenue	1256523000		1256523000
58	Other Expenditure pertaining to Labour and Employment	Capital	5260000		5260000
59	Department Legal	Revenue	39482000		39482000
60	Administration of Justice	Revenue	1388051000	185092000	1573143000
61	Other Expenditure pertaining to Legal	Revenue	150216000		150216000
	Department	Capital	32015000		32015000
62	Legislative and Parliamentary Affairs	Revenue	20660000		20660000
	Department				

1	2	3		
			Rs.	Rs.
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs	Capital	1500000	1500000
64	Department Narmada, Water Resources, Water Supply and Kalpsar	Revenue	51165000	51165000
65	Department Narmada Development Scheme	Capital	23530257000	23530257000
66	Irrigation and Soil Conservation	Revenue	3437360000	3437360000
		Capital	10134400000	10134400000
67	Water Supply	Revenue	1395600000	1395600000
		Capital	6060200000	6060200000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar	Capital	67980000	67980000
69	Department Panchayats, Rural Housing and Rural Development	Revenue	33170000	33170000
70	Department Community Development	Revenue	3644148000	3644148000
71	Rural Housing and Rural Development	Revenue	3235520000	1604200000 4839720000
72	Compensation and Assignments	Revenue	620895000	620895000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development	Revenue	1164285000	1164285000
	Department	Capital	71920000	71920000

1	2		3	
			Rs.	Rs.
74	Transport	Revenue	3839710000	3839710000
		Capital	1150000000	1150000000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	7551000	7551000
		Capital	700000	700000
76	Revenue Department	Revenue	146180000	146180000
77	Tax Collection Charges (Revenue Department)	Revenue	657507000	657507000
78	District Administration	Revenue	805565000	805565000
79	Relief on account of Natural Calamities	Revenue	3389336000	3389336000
		Capital	6560700000	6560700000
80	Dangs District	Revenue	204048000	204048000
81	Compensation and Assignments	Revenue	356930000	1310000 358240000
		Capital	4100000	200000 4300000
82	Other Expenditure pertaining to Revenue Department	Revenue	16820000	16820000
		Capital	5110000	5110000
83	Roads and Buildings Department	Revenue	63170000	63170000
84	Non-Residential Buildings	Revenue	2598193000	1000000 2599193000
		Capital	1784329000	1784329000
85	Residential Buildings	Revenue	997121000	997121000
		Capital	231503000	231503000
86	Roads and Bridges	Revenue	6740212000	6740212000
		Capital	8517401000	8517401000
87	Gujarat Capital Construction Scheme	Revenue	80285000	80285000
		Capital	230800000	230800000

1.	2	3	Rs.	Rs.	Rs.
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	109795000		109795000
		Capital	59175000		59175000
89	Science and Technology Department	Revenue	397640000		397640000
90	Other Expenditure pertaining to Science and Technology Department	Revenue	482195000		482195000
		Capital	102265000		102265000
91	Social Justice and Empowerment Department	Revenue	26535000		26535000
92	Social Security and Welfare	Revenue	3043707000	9800000	3053507000
		Capital	59191000		59191000
93	Welfare of Scheduled Tribes	Revenue	805897000		805897000
		Capital	17500000		17500000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	7255000		7255000
95	Special Component Plan for Scheduled Castes	Revenue	3358114000		3358114000
		Capital	449800000		449800000
96	Tribal Area Sub-Plan	Revenue	11095973000		11095973000
		Capital	4026245000		4026245000
97	Sports, Youth and Cultural Activities Department	Revenue	22385000		22385000
98	Youth Services and Cultural Activities	Revenue	364867000		364867000

1	2	3	Rs.	Rs.	Rs.
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	2015000		2015000
100	Urban Development and Urban Housing Department	Revenue	17795000		17795000
101	Urban Housing Department	Revenue	5390000	651739000	657129000
102	Urban Development	Revenue	6833843000		6833843000
		Capital	1000000		1000000
103	Compensation, Assignment and Tax Collection Charges	Revenue	926025000	320103000	1246128000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	7435000		7435000
		Capital	3515000		3515000
105	Women and Child Development Department	Revenue	7955000		7955000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	2148904000	5500000	2154404000
		Capital	50806000		50806000
Total:		Revenue	195263412000	72110153000	267373565000
		Capital	76934600000	33793633000	110728233000
Grand Total :			272198012000	105903786000	378101798000

STATEMENT OF OBJECTS AND REASONS

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State, of all moneys required to meet-

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the expenditure charged on the Consolidated Fund of the State for the financial year ending on the 31st March, 2007.

The amounts are shown below: -		Rs.
(a)	Revenue Expenditure	2,67,37,35,65,000
(b)	Capital Expenditure	1,10,72,82,33,000
Total :-		<u>3,78,10,17,98,000</u>

Dated the 24th March, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 24th March, 2006.

S. S. PARMAR,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Government Central Press, Gandhinagar.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] TUESDAY, MARCH 28, 2006/CAITRA 7, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 25 OF 2006.

A BILL

further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2006.

(2) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as "the principal Act"), in section 2,-

Short title
and
commence
ment.

Amendment
of section 2
of
President's
Act No. 11
of 1976.

- (1) after clause (e), the following clause shall be inserted, namely :-
 “(ee) “prescribed authority” means an officer appointed under sub-section (1) of section 12;”;

Guj. 1 of
1970.

Guj. 1 of
2005.

- (2) in clause (i), for the words and figures “Gujarat Sales Tax Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969”, the words and figures “Tribunal constituted under section 19 of the Gujarat Value Added Tax Act, 2003” shall be substituted.

Amendment
of section
9 of
President's
Act No.
11 of 1976.

3. In the principal Act, in section 9, in sub-section (1), for the words “two per cent.”, the words “one and a half per cent.” shall be substituted.

Amendment
of section
11 of
President's
Act No.
11 of 1976.

4. In the principal Act, in section 11, in sub-section (2), in clause (i), the brackets and words “(hereinafter in this section referred to as “the said Code”)” shall be added at the end.

Amendment
of section
12 of
President's
Act No.
11 of 1976.

5. In the principal Act, in section 12,-

- (1) in sub-section (2),-

- (a) for the words and figures, “section 28 of the Gujarat Sales Tax Act, 1969”, the words and figures “section 19 of the Gujarat Value Added Tax Act, 2003” shall be substituted;

Guj. 1 of
1970.

- (b) for the figures “28”, the figures “19” shall be substituted;

Guj. 1 of
2005.

- (2) in sub-section (3), for the words “District Panchayat”, the word “Panchayat” shall be substituted;

- (3) in sub-section (4), for the word, “officer”, the words “officer or employee” shall be substituted;

- (4) after sub-section (4), the following sub-section shall be inserted, namely:-

“(4A) The amount of tax collected by the Collecting Agent shall be credited to the Consolidated Fund of the State.”;

- (5) for sub-section (5), the following sub-section shall be substituted, namely :-

“(5) Where the State Government appoints Municipal Corporation, Municipality or Panchayat as its Collecting Agent under sub-section (3), there shall be paid to the Collecting Agent such percentage of the amount of tax collected by it as the State Government may by order in writing, determine.”.

Amendment
of section 26
of President's
Act No. 11 of
1976.

6. In the principal Act, in section 26, in sub-section (2), for the words “to him”, the words, brackets and figures “to him or to the officer authorised by the Collecting Agent under sub-section (4) of section 12” shall be substituted.

7. In the principal Act, in section 27, in sub-section (2), in clause (f), for the word "officer", the words "officer or employee" shall be substituted.

Amendment
of section 27
of
President's
Act No. 11
of 1976.

8. In the principal Act, in Schedule I, in entry 7,-

Guj.1 of
1970.

Guj.1 of
2005.

- (1) for the words and figures "Gujarat Sales Tax Act, 1969", the words and figures "Gujarat Value Added Tax Act, 2003" shall be substituted;
(2) the Explanation shall be deleted.

Amendment
of Schedule
1 of
President's
Act No.
11 of 1976.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 with a view to giving effect to the Budget proposal contained in the Budget speech of the Chief Minister in the Gujarat Legislative Assembly on the 24th February, 2006.

SAURABH PATEL

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.-- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 5.-- Sub-section (5) of section 12 proposed to be substituted by this clause empowers the State Government to determine by order, the percentage of the amount of tax collected by Collecting Agent, to be paid to such Collecting Agent.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 28th March, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

S. S. PARMAR,

Gandhinagar,

Secretary to the Government of Gujarat,

Dated the 28th March, 2006.

Legislative and Parliamentary Affairs Department.



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EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] TUESDAY, MARCH 28, 2006 /CAITRA 7, 1928

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PART V

Bills introduced in the Gujarat Legislative Assembly.

THE FOLLOWING BILL WHICH WAS INTRODUCED ON THE 28TH MARCH, 2006 BY SHRI TAPUBHAI LIMBASIYA MLA IS PUBLISHED UNDER RULE 127-A OF THE GUJARAT LEGISLATIVE ASSEMBLY RULES FOR GENERAL INFORMATION.

As introduced in Gujarat Legislative Assembly on 28th March, 2006.

GUJARAT BILL NO. 26 OF 2006.

THE BOMBAY SHOPS AND ESTABLISHMENTS (GUJARAT AMENDMENT) BILL, 2006.

A BILL

Further to amend the Bombay Shops and Establishments Act, 1948.

It is hereby enacted in the Fifty-eight Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Shops And Establishments (Gujarat Amendment) Act, 2006
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government May, by notification in the *Official Gazette*, appoint.

Short title
Extent and
commence
ment

Amendment
of section 7
of LXXIS
of 1948.

2. In the Bombay Shops and Establishments Act, 1948, in section 7, in sub-section (5), for the words "for a period not exceeding three years at a time" the words "for a period not exceeding fifteen years at a time" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill Seeks to amend the Bombay Shops and Establishments Act 1948. this Bill seeks to amend sub-section (5) of section 7 of the Act so as to provide that the registration certificate granted under sub-section (2) of that section shall remain in force for a period not exceeding 15 years at a time, so as to keep the employer of the establishment from the harassment for registration proceedings at shorter intervals.

Hence, the Bill.

Gandhinagar.

Dated 16th March, 2006.

TAPUBHAI LIMBASIYA,

M.L.A.

Gandhinagar.

Dated : 28th March, 2006

D. M. PATEL,

Secretary,
Gujarat Legislative Secretariat.

Government Central Press, Gandhinagar.



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EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, SEPTEMBER 11, 2006/BHADRA 20, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT TAX ON ENTRY OF SPECIFIED GOODS INTO LOCAL AREAS (SECOND AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 27 OF 2006.

A BILL

further to amend the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas (Second Amendment) Act, 2006.

Short title
and
commencement

(2) It shall be deemed to have come into force on the 4th August, 2006.

2. In the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 (hereinafter referred to as "the principal Act"), in the Schedule, after entry at serial No.7, the following entry shall be added, namely :-

Amendment
of
Schedule
to Guj. 22
of 2001.

1	2	3
---	---	---

- "8. Yarn of all types except Nylon Four per cent."
Yarn, Polyester Viscose Yarn and
Cotton Yarn.

Repeal and
savings.

3. (1) The Gujarat Tax on Entry of Specified Goods into Local Areas (Second Amendment) Ordinance, 2006 is hereby repealed.

Guj. Ord. 3
of 2006.

- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 provides for levy of tax on entry of certain goods into local areas of the State from any place outside the State.

The Polyester yarn is manufactured both in the State of Gujarat and outside the State. The yarn has to undergo a process of texturizing before it is used for manufacture of fabrics by the process of weaving. There are number of units located in the neighbouring States/Union Territories enjoying the benefits of tax exemption under the various schemes. In order to provide a level playing field between manufacturers of Gujarat and neighbouring States/Union Territories, it was considered necessary to impose entry tax on yarn of all types except Nylon Yarn, Polyester Viscose Yarn and Cotton Yarn entering into the State of Gujarat from outside the State.

As the Gujarat Legislative Assembly was not in session, the Gujarat Tax on Entry of Specified Goods into Local Areas (Second Amendment) Ordinance, 2006 was promulgated to amend the Schedule to the Act to achieve the aforesaid object.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Dated the 8th September, 2006.

SAURABH PATEL

By order and in the name of the Governor of Gujarat,

H.D. VYAS,

Gandhinagar,
Dated the 11th September, 2006.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.



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EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, SEPTEMBER 11, 2006/BHADRA 20, 1928

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PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT VALUE ADDED TAX (SECOND AMENDMENT)

BILL, 2006.

GUJARAT BILL NO. 28 OF 2006.

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Second Amendment) Act, 2006. Short title and commencement

(2) The provisions of Part I of this Act shall be deemed to have come into force on the 10th May, 2006; the provisions of Part II shall be deemed to have come into force on the 4th August, 2006 and the provisions of Part III of this Act shall come into force at once.

PART I

Amendment of
section 2 of
Guj.1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003, (hereinafter referred to as "the principal Act"), in section 2, in clause (27), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted.

Guj.1 of 2005.

Amendment of
section 9 of Guj.
1 of 2005.

3. In the principal Act, in section 9, after sub-section (3), the following sub-section shall be added, namely:-

"(4) Where a dealer or a Commission Agent who is liable to pay tax under this Act purchases taxable goods from a Commission Agent to whom permission to pay *lump sum* tax is granted under section 14B and the goods so purchased by him are not resold within the State, then such dealer or the Commission Agent shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II."

Amendment of
section 11 of
Guj.1 of 2005.

4. In the principal Act, in section 11, in sub-section (5), in clause (c), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted.

Amendment of
section 14 of
Guj. 1 of 2005.

5. In the principal Act, in section 14, in sub-section (1),-

- (1) in clause (a), in the proviso, clause (vii) shall be deleted;
- (2) in clause (b), for the words, brackets and figures "clauses (i) to (vii)," the words, brackets and figures "clauses (i) to (vi)" shall be substituted.

Insertion of new
sections 14B
and 14C in
Guj.1 of 2005.

6. In the principal Act, after section 14A, the following sections shall be inserted, namely:-

Composition
of tax on
agricultural
produce.

"14B. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a Commission Agent engaged in the business of agricultural produce, to pay at his option in lieu of the amount of tax leviable from him under this Act, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*.

(2) The permission to pay *lump sum* tax under sub-section (1) shall be granted by the Commissioner to a Commission Agent who, -

(a) exclusively carries on a business of agricultural produce, and

(b) is licensed as general Commission Agent with a market committee established under the Gujarat Agricultural Produce Markets Act, 1963.

Guj. 20 of
1964.

(3) The Commissioner shall not grant permission to pay *lump sum* tax under sub-section (1) to a Commission Agent who,-

(a) sells the goods in the course of inter-State trade and commerce or exports goods out of the territory of India,

(b) purchases the goods in the course of inter-State trade and commerce or imports goods from a place out of the territory of India,

(c) dispatches the goods to his branch or his consigning agent outside the State or receives the goods from his branch situated outside the State or from his consigning agent outside the State,

(d) sells the goods to a person who is not a registered dealer, or

(e) sells the goods to a dealer who is permitted to pay *lump sum* tax under section 14.

(4) The Commission Agent who is permitted under sub-section (1) to pay *lump sum* tax shall not,-

(a) be entitled to claim tax credit in respect of tax paid by him on his purchases,

(b) charge any tax under this Act in his sales bill or sales invoices in respect of the sales on which *lump sum* tax is payable, and

(c) issue tax invoice to any dealer who has purchased the goods from him.

(5) The Commission Agent who is permitted to pay *lump sum* tax under sub-section (1) shall be liable to pay purchase tax leviable under sub-sections (1), (3) and (4) of section 9 in addition to the *lump sum* tax under this section.

(6) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the Commission Agent shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed.

Composition of
tax on turnover
of right to use
goods.

14C. (1) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer referred to in sub-clause (h) of clause (10) of section 2, to pay at his option in lieu of amount of tax leviable from him under this Act, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*.

(2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

(3) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the dealer shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed."

Amendment of section 31 of Guj. 1 of 2005. 7. In the principal Act, in section 31, in sub-section (2), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted.

Amendment of section 41 of Guj.1 of 2005. 8. In the principal Act, in section 41, in sub-section (1), for the words "inequitable situation", the words "inequitable situation or for sufficient and reasonable cause" shall be substituted.

Amendment of section 60 of Guj.1 of 2005. 9. In the principal Act, in section 60, in sub-section (1), in the proviso-

(i) in clause (b), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted;

(ii) in clause (c), the word "or" appearing at the end shall be deleted;

(iii) in clause (d), the word " or" shall be added at the end;

(iv) after clause (d), the following clause shall be added, namely:-

" (e) in such other cases as the State Government may, by notification in the *Official Gazette*, specify."

Amendment of section 64 of Guj.1 of 2005. 10. In the principal Act, in section 64,-

(1) for the words "eight years", the words "six years" shall be substituted;

(2) the following proviso shall be added, namely:-

" Provided that where the dealer is a party to an appeal or revision under this Act, he shall preserve the books of accounts and the records pertaining to the subject matter of such appeal or revision until the appeal or revision is finally disposed of."

Amendment of section 98 of Guj. 1 of 2005. 11. In the principal Act, in section 98, after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) Any rule made under this Act, may be made so as to have retrospective effect."

PART II

12. In the principal Act, in section 2, in clause (27), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted. Amendment of section 2 of Guj. 1 of 2005.

13. In the principal Act, in section 11, in sub-section (5), in clause (c), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted. Amendment of section 11 of Guj. 1 of 2005.

14. In the principal Act, after section 14C, the following section shall be inserted, namely :- Insertion of new section 14D in Guj. 1 of 2005.

Composition of tax on sales of eatables by hotels, restaurants, caterers, etc.

"14D. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer who is engaged in the business of sale of eatables in any form (whether processed or unprocessed) served, delivered or given in package from the place of business of the dealer or any other place, to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of sales of eatables, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*:

Provided that the Commissioner shall not grant permission to pay *lump sum* tax to a dealer who is engaged in the activity of manufacture of such goods as the State Government may, by notification in the *Official Gazette*, specify.

- (2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.
- (3) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the dealer shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed.

Explanation.- For the purpose of this section, the word "eatables" means all kind of foods for the purpose of consumption including all types of alcoholic and non-alcoholic beverages, water (mineral, purified or aerated) and soda water, ice-cream and *kulfi*, sweets and sweetmeats, fruits and fruit juice, all types of milk preparations, bakery products and such other goods as the State Government may, by order, specify."

Amendment of
section 31 of
Guj.1 of 2005.

15. In the principal Act, in section 31, in sub-section (2), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

Amendment of
section 60 of
Guj.1 of 2005.

16. In the principal Act, in section 60, in sub-section (1), in the proviso, in clause (b), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

PART III

Amendment of
section 11 of
Guj.1 of 2005.

17. In the principal Act, in section 11, in sub-section (3), to clause (b), the following proviso shall be inserted, namely :-

"Provided that where the rate of tax of the taxable goods consigned or dispatched by a dealer for branch transfer or to his agent outside the State is less than four per cent., then the amount of tax credit in respect of such dealer shall be reduced by the amount of tax calculated at the rate of tax set out in the Schedule on such goods on the turnover of purchases."

Amendment of
section 29 of
Guj.1 of 2005.

18. In the principal Act, in section 29, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend the date of furnishing the return by any dealer or class of dealers."

Amendment of
section 30 of
Guj.1 of 2005.

19. In the principal Act, in section 30, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend in respect of any dealer or class of dealers, the date of payment of tax payable by the dealer according to his return."

Repeal and
savings.

20. (1) The Gujarat Value Added Tax (Second Amendment) Ordinance, 2006 and the Gujarat Value Added Tax (Third Amendment) Ordinance, 2006 are hereby repealed.

Guj. Ord.1 of
2006.

Guj. Ord.2 of
2006.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Value Added Tax Act, 2003 (Guj.1 of 2005) has been implemented in the State with effect from 1st April, 2006. Representations were received by the Government from the traders and businessmen to remove the difficulties and hardship caused in the implementation of the Act and to grant the benefit of payment of *lump sum* tax. The State Government had considered such representations and it was considered necessary to amend the Act so as to provide for the following matters which are included in Part I and II of Bill :-

- (i) New sub-section (4) inserted in section 9 imposes liability on the purchasing dealer to pay purchase tax where the agricultural produce purchased by him from the commission agent has not been resold within the State.
- (ii) Under the provisions of section 14, a dealer who has been permitted to pay *lump sum* tax cannot effect sales or purchases with another dealer who is permitted to pay *lump sum* tax. This restriction has been removed.
- (iii) New section 14B empowers the Commissioner to permit a commission agent engaged in the business of agricultural produce, to pay *lump sum* tax.
- (iv) New section 14C empowers the Commissioner to permit a dealer engaged in the business of transferring the right to use the goods, to pay *lump sum* tax.
- (v) New section 14D empowers the Commissioner to permit a dealer engaged in the business of sale of eatables i.e. hotels, restaurants, caterers etc., to pay *lump sum* tax.
- (vi) New sections 14A, 14B, 14C and 14D are proposed to be inserted in the Act, and therefore consequential amendments are made in section 2, 11, 31 and 60.
- (vii) Amendment of section 41 empowers the State Government to grant remission of tax, penalty or interest also in the cases where there is sufficient and reasonable cause for granting the remission.
- (viii) Section 64 provides that the books of accounts shall be preserved by the dealer for a period of eight years. This time limit of eight years has been reduced to six years except in case where an appeal or revision is pending before any Authority.
- (ix) In order to enable the State Government to make rules with the retrospective effect, new sub-section (2A) is inserted in section 98.

An opportunity has been taken to amend the clause (b) of sub-section (3) of section 11 so as to provide that where the rate of tax of taxable goods consigned or dispatched by a dealer for branch transfer or to his agent outside the State is less than four per cent., the amount of tax

credit in respect of such dealer shall be reduced by the amount of tax calculated at the rate of tax provided in the Schedule of the Act on such goods. It is also considered necessary to amend sections 29 and 30 so as to empower the Commissioner to extend the date of furnishing the return as well as the date for making payment of tax by the dealer or class of dealers.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Value Added Tax (Second Amendment) Ordinance, 2006 and the Gujarat Value Added Tax (Third Amendment) Ordinance, 2006 were promulgated to amend the said Act. This Bill seeks to replace the said Ordinances by an Act of the State Legislature and also seeks to amend sections 11, 29 and 30 to achieve the aforesaid objects.

SAURABH PATEL

MEMORADUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:-

- Clause 6.-** (i) Sub-section (1) of section 14B and sub-section (1) of section 14C proposed to be inserted by this clause empower the State Government to prescribe by rules, the circumstances in which and the conditions subject to which the dealer can be permitted to pay *lump sum* tax in lieu of the amount of tax leviable under the Act. It also empowers the State Government to fix, by notification in the *Official Gazette*, the rate of *lump sum* tax.
- (ii) Sub-section (6) of section 14B, and sub-section (3) of section 14C proposed to be inserted by this clause empower the State Government to prescribe by rules the tax period in respect of which the commission agent/dealer shall be liable to pay tax under sections 7 and 9 in case of breach of provisions of the Act or the rules.
- Clause 9.-** Clause (e) proposed to be added in the proviso to sub-section (1) of section 60 empowers the State Government to specify, by notification in the *Official Gazette*, such other cases for which tax invoice shall not be issued.
- Clause 11.-** Sub-section (2A) proposed to be inserted in section 98 by this clause empowers the State Government to make rules with retrospective effect.
- Clause 14.-** (i) Sub-section (1) of section 14D proposed to be inserted by this clause empowers the State Government to prescribe by rules, the circumstances in which and the conditions subject to which the dealer can be permitted to pay *lump sum* tax in lieu of the amount of tax leviable under the Act. It also empowers the State

Government to fix, by notification in the *Official Gazette*, the rate of *lump sum* tax.

(ii) The proviso to sub-section (1) of section 14D proposed to be inserted by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the activity of the manufacture of such goods for which the Commissioner shall not grant permission to pay *lump sum* tax to a dealer who is engaged in the business of sales of eatables.

(iii) Sub-section (3) of section 14D proposed to be inserted by this clause empowers the State Government to prescribe by rules the tax period in respect of which the dealer shall be liable to pay tax under sections 7 and 9 in case of breach of provisions of the Act or the rules.

(iv) The *Explanation* to section 14D empowers the State Government to specify, by order, the other goods which falls within the term 'eatables' used in the section.

Clause 18.- Sub-section (2A) proposed to be inserted in section 29 by this clause empowers the State Government to prescribe by rules, the circumstances in which and terms and conditions on which the Commissioner may extend the date of furnishing the return by any dealer or class of dealers.

Clause 19.- Sub-section (2A) proposed to be inserted in section 30 by this clause empowers the State Government to prescribe by rules, the circumstances in which and terms and conditions on which the Commissioner may extend the date of payment of tax payable by any dealer or class of dealers.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 8th September, 2006.

SAURABH PATEL.

By order and in the name of the Governor of Gujarat,

H.D. VYAS,

Gandhinagar,

Dated the 11th September, 2006.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

V - Ex - 28 - 3



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] MONDAY, SEPTEMBER 11, 2006/BHADRA 20, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE DHIRUBHAI AMBANI INSTITUTE OF INFORMATION AND COMMUNICATION TECHNOLOGY (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 29 OF 2006.

A BILL

further to amend the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Dhirubhai Ambani Institute of Information and Communication Technology (Amendment) Act, 2006.

Short title.

2. In the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003, in section 10, in sub-section (1), after clause (iv), the following clause shall be inserted, namely :-

Amendment
section 10 of
Guj. 6 of 2003

“(iv-a) Secretary to Government (Higher and Technical Education), Education Department, Government of Gujarat.”

STATEMENT OF OBJECTS AND REASONS

In view of the fact that the education policy of the State is being enforced by the Education Department of the State, it is considered necessary to have the Secretary to Government (Higher and Technical Education), Education Department being the administrative head of the Education Department, as one of the members of the Board of Governors in the University constituted under the Dhirubhai Ambani Institute of Information and Communication Technology Act, 2003. Therefore, it is considered necessary to insert a new clause (iv-a) after the clause (iv) in sub-section (1) in section 10 in the said Act.

This Bill seeks to amend the said Act to achieve the aforesaid object.

Dated the 11th September, 2006.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 11th September, 2006.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII] WEDNESDAY, SEPTEMBER 13, 2006/BHADRA 22, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT FREEDOM OF RELIGION (AMENDMENT) BILL, 2006.

GUJARAT BILL NO. 30 OF 2006.

A BILL

further to amend the Gujarat Freedom of Religion Act, 2003.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Freedom of Religion (Amendment) Act, 2006. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Guj. 22 of 2003. 2. In the Gujarat Freedom of Religion Act, 2003, in section 2, for clause (b), the following shall be substituted, namely :- Amendment of section 2 of Guj. 22 of 2003.

“(b) “Convert” means to make one person to renounce one religion and adopt another religion; but does not include to make one person to renounce one denomination and adopt another denomination of the same religion.

Explanation. - For removal of doubt, it is hereby illustrated that for the purpose of this Act-

- (i) Jain and Buddhist shall be construed as denominations of Hindu religion;
- (ii) Shia and Sunni shall be construed as denominations of Muslim religion; and
- (iii) Catholic and Protestant shall be construed as denominations of Christian religion."

STATEMENT OF OBJECTS AND REASONS

Clause (b) of section 2 of the Gujarat Freedom of Religion Act, 2003 defines the term "convert". The said definition does not elaborate the specific mention of a particular denomination of religion. It is considered that conversion amongst the inter denomination of the same religion should be excluded from the operation of the Act. It is, therefore, considered necessary to elaborate and clarify the term 'convert' to make it more specific.

Accordingly, the term "convert" in clause (b) of section 2 of the Act is proposed to be amended to elaborate the said term so as to clarify illustratively that Jain and Buddhist shall be construed as denominations of Hindu religion, Shia and Sunni shall be construed as denominations of Muslim religion and Catholic and Protestant shall be construed as denominations of Christian religion for the purpose of the Act and the provisions of the Act shall not apply to inter denomination conversion of the same religion.

This Bill seeks to amend the said Act to achieve the aforesaid object.

AMIT SHAH,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative power in the following respects :-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

The delegation of legislative power as aforesaid is necessary and is of a normal character.

Dated the 13th September, 2006.

AMIT SHAH.

By order and in the name of the Governor of Gujarat,

Gandhinagar,
Dated the 13th September, 2006.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.



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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVIII FRIDAY, SEPTEMBER 15, 2006/BHADRA 24, 1928

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the rule 127A of the Gujarat Legislative Assembly Rules :-

THE CHAMPANER-PAVAGADH ARCHAEOLOGICAL PARK WORLD HERITAGE AREA MANAGEMENT AUTHORITY BILL, 2006.

GUJARAT BILL NO. 31 OF 2006.

A BILL

to provide for constituting and establishing of an Authority to manage and ensure integrated conservation of heritage and natural environs, preservation of historical and cultural identity and also for preventing uncontrolled development and commercial exploitation of the Champaner-Pavagadh Archaeological Park and for matters connected therewith and incidental thereto.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. (1) This Act may be called the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006. **Short title and commencement.**

(2) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act.

Definitions 2.

In this Act, unless the context otherwise requires -

(a) "amenity" includes roads, bridges, streets, transport, lighting, water and electricity supply, sewerage, drainage, public works, open spaces, recreational grounds, parks and other conveniences, services or utilities;

(b) "appointed day" means the day appointed for bringing into force all or any the provisions of the Act;

(c) "Authority" means the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority established under section 3;

(d) "Chairperson" means the Chairperson of the Authority;

(e) "Chief Executive Officer" means an Officer appointed as such under sub-section (1) of section 8;

(f) "Core Area Zone" and 'Buffer Zone' mean such areas as the State Government may, by notification in the *Official Gazette*, specify;

(g) "development" with its grammatical variation means the carrying out of building, engineering or other operations in or over or under any land or the making of any material change in any building, or land or in the use of any building, or land and includes redevelopment and forming of layouts and sub-division of any land including amenities;

(h) "Fund" means the fund of the Authority;

(i) "Heritage Area" means the whole of the area comprising the Core Area Zone and Buffer Zone including the area notified or as may be notified from time to time under the Gujarat Ancient Monuments and Archaeological Sites and Remains Act, 1965 in the Core Area Zone and Buffer Zone but excluding the area notified as 'protected area' under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and the areas declared as a reserved forest under the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980;

Guj. 25
of 1965.

24 of 1958.
16 of 1927.
69 of 1980.

(j) "local authority" means a municipal corporation, municipality or panchayat constituted under relevant local authority law;

(k) "land" includes benefits arising out of land and things attached to the earth permanently fastened to anything attached to the earth;

(l) 'prescribed' means prescribed by rules made under this Act;

(m) "relevant local authority law" means the Bombay Provincial Municipal Corporations Act, 1949, the Gujarat Municipality Act, 1963 or the Gujarat Panchayat Act, 1993;

Bom. LIX
of 1949.

Guj. 34
of 1964.

Guj. 18
of 1993.

(n) the words and expressions used but not defined in this Act shall have meanings respectively assigned to them in the Gujarat Town Planning and Urban Development Act, 1976.

President's
Act No. 27
of 1976.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY.

3. (1) The State Government shall, by notification in the *Official Gazette*, establish an Authority to be called the "Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority."

Establishment
and
incorporation
of Authority.

(2) The Authority shall be a body corporate with perpetual succession and common seal and may sue or be sued in the said name and shall subject to the provisions of this Act, be competent to acquire, hold and dispose of property both movable and immovable and to contract and do all things necessary for the purposes of this Act.

(3) The headquarters of the Authority shall be at such place as the State Government may, by notification in the *Official Gazette*, specify.

4. The Authority shall consist of the following members, namely :-

Constitution of
the Authority.

- | | | |
|---------|---|-------------------|
| (i) | Chief Secretary to the
Government of Gujarat <i>ex-officio</i> | Chairperson |
| (ii) | Secretary to the
Government of Gujarat (Culture
activities) <i>ex-officio</i> | Vice-Chairperson |
| (iii) | Director General, Archaeological Survey of India, New Delhi, | |
| (iv) | Secretary to the Government of Gujarat, Forest and
Environment Department, <i>ex-officio</i> , | |
| (v) | Secretary to the Government of Gujarat, Roads and Buildings
Department, <i>ex-officio</i> , | |
| (vi) | Managing Director, Tourism Corporation of Gujarat Ltd., | |
| (vii) | Director of Archaeology, Gujarat State, | |
| (viii) | Superintending Archaeologist, Archaeological Survey of
India, Vadodara Circle, | |
| (ix) | Collector, Panchmahal District, | |
| (x) | District Development Officer, Panchmahal District, | |
| (xi) | Superintendent of Police, Panchmahal District, | |
| (xii) | Senior Town Planner, South Gujarat Regional Office, Vadodara, | |
| (xiii) | Deputy Conservator of Forest, Godhra, Panchmahal District, | |
| (xiv) | Executive Engineer, Roads and Buildings Division, Godhra, | |
| (xv) | Head of the Department of Archaeology, M.S. University of
Baroda, | |
| (xvi) | President, Heritage Trust, Vadodara, | |
| (xvii) | Sarpanch, Champaner Village, | |
| (xviii) | One member as nominated by the Pavagadh Temple Trust, | |
| (xix) | Chief Executive Officer | Member Secretary. |

Establishment
of Advisory
Committee.

5. There shall be Technical Advisory Committee consisting of the following members, namely:-

- (a) Superintending Archaeologist. Archaeological Survey of India, Vadodara Circle.
- (b) Director of Archaeology, Gujarat State.
- (c) Deputy Conservator of Forest, Godhra, Panchmahal District,
- (d) One representative as nominated by the M.S. University of Baroda from the Department Of Archaeology,
- (e) One representative of the Heritage Trust, Vadodara,
- (f) Planning officer of the Authority,
- (g) An expert in the field of heritage, archaeology, tourism, environment co-opted by the Authority on the recommendation of the Chief Executive Officer.

Meeting of
Authority.

6. (1) The meeting of the Authority shall be convened by the Chairperson or by the Chief Executive Officer with the approval of the Chairperson and it shall ordinarily meet at least once in three months at such place within the jurisdiction of the authority or at the headquarters of the Authority and at such time as the Chairperson may decide.

(2) The Authority shall observe such rules of procedures as framed by the Authority in regard to the transaction of business of its meetings (including quorum at meeting) as may be specified by regulations.

(3) The Chairperson or in his absence, the Vice Chairperson or in absence of both, any other member chosen by the members present at the meeting, shall preside at the meeting of the Authority.

(4) All questions which come up before any meeting of the Authority shall be decided by the majority of the votes of the members present and voting and in the event of equality of votes, the Chairperson shall have and exercise a second or casting vote.

(5) A member shall not, at any meeting of the Authority or a committee thereof, takes part in the discussion or vote on any matter in which he has directly or indirectly by himself or his partner, any share or interest.

Authority
Security
Force.

7. (1) There shall be appointed and maintained a force to be called the Authority Security Force for the purposes of -

- (i) better protection and security of the public property within the heritage area including prevention of encroachments and removal thereof;
- (ii) aiding the officers of the Authority in the detection and investigation of any matter relating to leakage of revenue or any amount payable to the Authority;
- (iii) effective communication and obtaining of any information regarding any design to commit or the commission of any offence by any person under this Act or the Gujarat Town Planning and Urban Development Authority Act, 1976 or any rule or regulation or order made thereunder;
- (iv) exercising such other powers and discharging such other functions as may be prescribed.

(2) The Authority Security Force shall consist of such number of supervisory officers and employees as may be determined by the Authority and shall be appointed with the prior approval of the State Government.

(3) The Chief Executive Officer shall exercise powers of superintendence and control over the Authority Security Force.

President's
Act No. 27
of 1976.

CHAPTER III
OFFICERS AND EMPLOYEES OF AUTHORITY AND
THEIR DUTIES.

8. (1) The State Government shall appoint an officer to be the Chief Executive Officer of the Authority.

**Duties of
Chief
Executive
Officer.**

(2) The Chief Executive Officer shall be the administrative officer of the Authority and in addition to perform such functions as are conferred on him by or under this Act or under any law for the time being in force, he shall-

- (a) be responsible for all budgetary, planning, enforcement and supervisory functions of the Authority ;
- (b) furnish to the Authority all the information relating to the administration and accounts of the Authority as well as other matter whenever called upon by the Authority to do so;
- (c) prepare and submit the annual report and audited accounts of the Authority for its approval within three months of the close of every financial year and submit copies of the same to the State Government;
- (d) perform such other functions as may be prescribed.

9. (1) For the effective implementation of the Act, the State Government shall appoint a Planning Officer and an Account Officer to the Authority.

**Appointment
of Planning
Officer and
Account
Officer.**

(2) The Planning Officers shall not below the rank of an Assistant Director of Town Planning.

(3) The Accounts Officer shall be an officer with adequate knowledge and experience of account matters.

(4) The Planning officer and the Accounts Officer shall report to the Chief Executive Officer and shall exercise such powers and perform such duties as may be prescribed.

10. The Planning Officer and the Accounts Officer and such other staff as are approved by the Authority may be either on deputation from the State Government or recruited by the Authority in accordance with the regulations made in this behalf.

**Mode of
recruitment
of Planning
Officer and
Accounts
Officer.**

CHAPTER IV

POWERS AND FUNCTIONS OF AUTHORITY.

- Functions of Authority.** 11. Subject to the provisions of this Act and the rules made there under, the functions of the Authority shall be-
- (i) to carry out a survey of the Heritage Area and prepare reports on the surveys so carried out;
 - (ii) to prepare development and management plans of the Heritage Area;
 - (iii) to carry out such works as are contemplated in the development and management plans;
 - (iv) to formulate as many schemes as are necessary for implementing the development plans of the Heritage Area;
 - (v) to secure and co-ordinate execution of the development plan, town planning schemes and development of the Heritage Area in accordance with such plans and schemes;
 - (vi) to raise finance for any project or scheme for the development of the Heritage Area and extend assistance to the local authorities in the region for the execution of such project or scheme;
 - (vii) to do such other acts and things as may be entrusted by the State Government or as may be necessary for or incidental or conducive to, any matters which are necessary for furtherance of the objects for which the authority is constituted;
 - (viii) to entrust to any local authority or other agency the work of execution of any development plan of town planning scheme for the development of the Heritage Area;
 - (ix) to co-ordinate the activities of the local authorities and the Urban Development Authority, if any, constituted under the Gujarat Town Planning and Urban Development Authority Act, 1976 exercising jurisdiction within the limits of the Heritage Area and the Gujarat Water Supply and Sewerage Board, Gujarat Slum Clearance Board, the Madhya Gujarat Urja Vikas Nigam, the Gujarat Industrial Area Development Board, the Gujarat State Road Transport Corporation and such other bodies as are presently concerned with development activities in the Heritage Area or may be concerned in the future;
 - (x) to supervise and review the progress of expenditure incurred under the plan or scheme and the performance of development by various departments and local authorities with reference to the plan or scheme;
 - (xi) to take action to protect the public property within the Heritage Area;
 - (xii) to raise local, regional, national and international awareness about the significance of the World Heritage Site;
 - (xiii) to promote and encourage proper research to understand the archaeological, historical and environmental values of the Champaner-Pavagadh Archaeological Park World Heritage Site;
 - (xiv) to perform such other functions as may be prescribed.

President's
Act
No. 27
of 1976.

12. Where there is no sufficient time to convene a meeting of the Authority, the Chairperson shall have special powers to act on his own and direct measures for effective realization of the object in the case of urgency. After taking such action as deemed necessary, he shall place the subject before the Authority at its immediate next meeting and seek the ratification of the action taken by him.

Special
powers of
Chairperson.

13. The Authority may by an order, direct that any power exercisable by it under this Act (except the power to make regulation) may also be exercised by the Chairperson or such officer of the Authority as may be specified in the order subject to such restrictions and conditions as may be specified therein.

Power to
delegate.

14. (1) Notwithstanding anything contained in any law of the State for the time being in force, no other authority or person shall undertake any development within the Heritage Area of the types which the Authority has power to undertake under this Act, except with the previous permission of the Authority.

No other
authority or
person to
undertake
development
without
permission
of Authority.

(2) No local authority shall grant permission for any development referred to in sub-section (1) within the Heritage Area, unless the Authority has granted permission for such development.

(3) Any authority or person desiring to undertake development referred to in sub-section (1) shall seek prior permission from the Authority.

(4) The Authority may, after making such inquiry as deems necessary, grant such permission subject to such conditions as it may deem fit to impose or refuse to grant such permission.

(5) (a) Any authority or person aggrieved by the decision of the Authority under sub-section (4) may, within thirty days from the date of the decision, appeal against such decision to the State Government.

(b) The State Government after hearing the appellant may, confirm, modify the decision or reject the appeal and the decision of the State Government shall be final:

Provided that where the aggrieved authority which is under the administrative control of the Central Government has filed an appeal, such appeal shall be decided by the State Government, after consultation with the Central Government.

(6) In case, any person or authority does anything contrary to the decision given under sub-section (4) as modified in sub-section (5), the Authority shall have power to pull down, demolish or remove any development undertaken contrary to such decision and recover the cost of such pulling down, demolition or removal from the person or authority concerned.

Power of entry. 15. The Authority may authorise any person to enter into or upon any land or building with or without assistance of workmen for the purposes of –

- (a) making any enquiry, inspection, measurement or survey or taking level for such land building;
- (b) examining works under construction and ascertaining the course of sewers and drains;
- (c) digging or boring into the sub-soil;
- (d) setting out boundaries and intended lines of works;
- (e) making such levels, boundaries and lines by placing marks and cutting trenches;
- (f) ascertaining whether any land is being or has been developed in contravention of any plan or scheme or in contravention of any conditions subject to which such permission has been granted; or
- (g) doing any other thing necessary for the efficient administration of this Act:

Provided that no such entry shall be made except between the hours of sunrise and sunset and without giving a reasonable notice to the occupier, or if there is no occupier, to the owner of the land or building:

Provided further that sufficient opportunity shall in every instance be given to enable women and children, if any, to withdraw from such land or building:

Provided also that due regard shall always be had, so far as may be, compatible with the exigencies of the purpose for which the entry is made, to social and religious usage of the occupants of the land or building entered.

Levy of fees. 16. (1) It shall be lawful for the Authority to levy at such rate as the State Government may, by notification in the *Official Gazette*, specify, a fee for grant of permission under section 14.

(2) All fees realized under this Act shall be credited to the Fund.

CHAPTER V

AUTHORITY FUND, ACCOUNTS, AUDIT AND REPORTS.

17. (1) The Authority shall have a fund to be called the Authority Fund which shall be operated by such officer as may be authorized by the Authority. **Fund of Authority.**

(2) The Authority may accept grants, subventions, contributions, donations and gifts from the Central Government, the State Government, a local authority, any international organization or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) The State Government shall, every year, make a grant to the Authority of a sum equivalent to the administrative expenses of the Authority till the Authority is able to meet its administrative expenses out of its own resources.

(4) All moneys received by or on behalf of the Authority by virtue of this Act and all interest, profits, and other moneys accruing to or borrowed by the Authority, shall be credited to the Fund.

(5) Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the Fund shall be deposited in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934 or invested in such securities as may be approved by the State Government.

2 of 1934.

(6) The Fund and all other assets vesting in the Authority shall be held and applied by it, for the purposes of this Act.

18. The Authority shall prepare, every year, in such form and at such time as may be prescribed, an annual budget estimates in respect of the next financial year showing the estimated receipts and expenditure of the Authority and shall submit a copy thereof to the State Government. **Budget.**

19. (1) The Authority shall prepare, after the end of each year in such form and before such date as may be prescribed, an annual report of its activities during the previous year and programme of work likely to be undertaken by the Authority and submit a copy thereof to the State Government. **Annual Report.**

(2) The State Government shall, as soon as may be after the receipt of the annual report under sub-section (1), cause the same to be laid before the State Legislature.

Subventions
and loans to
Authority.

20. (1) The State Government may from time to time, make subventions to the Authority for the purposes of this Act on such terms and conditions as the State Government may determine.

(2) The State Government, may, from time to time, advance loans to the Authority for the purposes of this Act, on such terms and conditions as the State Government may determine.

Power of
Authority to
borrow money.

21. The Authority may from time to time and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow money as required for the purposes of this Act.

Accounts and
audit.

22. (1) The Authority shall maintain books of accounts and such other books in such form and in such manner as may be prescribed and shall prepare in accordance with such rules an annual statement of accounts.

(2) The Authority shall cause its accounts to be audited annually by such person as the State Government, may direct.

(3) As soon as the accounts of the Authority have been audited, the Authority shall send a copy thereof together with a copy of the report of the auditor thereon to the State Government.

(4) The Authority shall comply with such direction as the State Government, may, after perusal of the report of the auditor, think fit to issue such direction.

(5) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (3), cause the same to be laid before the State Legislature.

CHAPTER VI

OFFENCES AND PENALTIES.

Penalty for
breach of
provisions of
the Act.

23. Whoever contravenes any of the provision of this Act or rules, regulations, bye-laws or scheme made or sanctioned thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both and in the case of continuing contravention, with additional imprisonment for a term which may extend to six month or with fine which may extend to five thousand rupees or with both for each day after the first during which the contravention continues.

24. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of and responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section.

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means partner in the firm.

25. No court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by an officer of the Authority authorized by it in this behalf.

Sanction of prosecution.

26. All fines realized in connection with prosecutions under this Act shall be credited to the Authority Fund.

Fines realized to be credited to Fund.

CHAPTER VII MISCELLANEOUS.

27. (1) The Authority may, in order to carry out the development plans and schemes formulated under section 11 or any town planning schemes, issue directions to any local authority, Urban Development Authority concerned, Gujarat Water Supply and Sewerage Board, Madhya Gujarat Urja Vikas Nigam and such other bodies as are connected with developmental activities in the Heritage Area.

Directions by Authority.

(2) Notwithstanding anything contained in any other law for the time being in force, every such direction shall be complied with by the body to which it is issued. On failure, it shall be competent for the Authority to take necessary action to carry out the directions issued under sub-section (1) and recover expenses, if any, incurred from the body concerned.

Authority
may
compromise
claims by or
against it.

28. The Authority may compromise any claim or demand arising out of any contract entered into by it under this Act or any action or suit instituted by or against it for such sum of money or other compensation, as it may deem sufficient:

Provided that no such claim or demand exceeding twenty-five thousand rupees shall be compromised except with the previous approval of the State Government.

Members
and officers
to be
public
servants.

29. Every member, every officer and other employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or any rule or regulation made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of
action taken in
good faith.

30. No suit, prosecution or other legal proceedings shall lie against the Authority or any member, officer or employee of the Authority or any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or regulation made thereunder.

Control by
State
Government.

31. (1) The State Government may give such directions consistent with the object of this Act, to the Authority as in its opinion is necessary or expedient for carrying out the purposes of the Act. The Authority shall carry out such directions as may be issued from time to time by the State Government.

(2) The Authority shall furnish to the State Government such reports, and other information as the State Government may from time to time require.

(3) Where in connection with the exercise of its powers and discharge of its functions by the Authority under this Act, any dispute arises between the Authority and a local authority or any Board or Corporation, the decision of the State Government on such dispute shall be final.

32. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State laws for the time being in force.

Act to over-ride other State laws.

33. (1) The State Government may, by notification in the *Official Gazette*, subject to the condition of previous publication, make rules to carry out the purposes of this Act:

Power to make rules.

Provided that if the State Government is satisfied that the circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

34. The Authority may, with previous sanction of the State Government, make regulations not inconsistent with this Act and the rules made there under for enabling it to perform its functions under this Act.

Regulations.

35. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government, may by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as the occasion may require to do anything which appears to be necessary for removing the difficulty:

Removal of difficulties.

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, before the State Legislature.

Amend-
ment
of Gujarat
Town
Planning
and Urban
Develop-
ment
Act, 1976.

36. In the Gujarat Town Planning and Urban Development Authority Act, 1976,-

President's
Act, 27 of
1976.

(1) in section 2; after clause (xii), the following shall be inserted,

namely:-

(xii-a) "Heritage Area" means the heritage area as defined in clause (i) of section 2 of the Champaner-Pavagadh Archeological Park World Heritage Area Management Authority Act, 2006.

Guj.
of 2006.

(2) in section 3, to sub-section (3), the following proviso shall be inserted, namely,--

"Provided further that in the case of the Heritage Area, the development area or urban development area declared under this Act shall be co-terminous with Heritage Area."

(3) in section 22, to sub-section (1), the following proviso shall be inserted, namely:

"Provided that notwithstanding anything contained in this Act, in the case of the urban development area comprising the Heritage Area, the development plan shall also contain the particulars specified in the Champaner-Pavagadh Archeological Park World Heritage Area Management Authority Act, 2006 and the plan so prepared shall for the purpose of that Act be deemed to be the comprehensive development plan for the purpose of section 22 of this Act."

Guj.
of 2006.

(4) after section 123, the following section shall be inserted, namely :-

"123A. Notwithstanding anything contained in this Act, with effect from the date of the constitution of the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority under the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority Act, 2006, such authority shall be the Area Development Authority or the Urban Development Authority for the area comprising the heritage area and shall exercise all the powers, perform duties and discharge functions under this Act as if it were Area Development Authority or Urban Development Authority constituted for the heritage area."

Guj.
of 2006.

Consequences
of constitution
of the
Champaner-
Pavagadh
Archaeo-
logical Park
World
Heritage
Area
Management
Authority.

Guj. 12
of 1973.

37. (1) The State Government may, by notification in the *Official Gazette*, provide from such date as may be specified in such notification that the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 shall apply to premises belonging to, vesting in or leased by the Authority as that Act applies in relation to public premises subject to the provision of sub-section (2).

Application
of the
Gujarat
Public
Premises
(Eviction
of Un-
authorized
Occupants)
Act, 1972.

(2) On issue of the notification under sub-section (1), the aforesaid Act of 1972 and rules made thereunder shall apply to the premises of the Authority with the following modifications, namely: -

- (a) the State Government may appoint an officer of the State Government or the Authority as it thinks fit, to be the Competent Authority for the purpose of the aforesaid Act;
- (b) reference to "public premises" in that Act and the rules shall be deemed to be references to premises of the Authority; and the references to the 'State Government' in that Act shall be deemed to be reference to 'the Authority'.

STATEMENT OF OBJECTS AND REASONS

The UNESCO has inscribed Champaner-Pavagadh as World Heritage Site. With a view to ensuring integrated conservation of the Champaner-Pavagadh Archaeological Park and to protect heritage Value of this site, it is considered necessary to enact a law for the constitution and establishment of the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain in brief the important provisions of the Bill.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for establishment and incorporation of the Champaner-Pavagadh Archaeological Park World Heritage Area Management Authority.

Clause 4.- This clause provides for Constitution of the Authority.

Clause 5.- This clause provides for establishment of Advisory Committee.

- Clause 6.- This clause provides for convening meeting of the Authority.
- Clause 7.- This clause provides for appointment and maintenance of Authority Security Force.
- Clause 8.- This clause provides for appointment, duties and functions of the Chief Executive Officer.
- Clauses 9.- and 10 These clauses provide for appointment of the Planning Officer and the Account Officer and their mode of recruitment.
- Clause 11.- This clause provides for functions of the Authority.
- Clause 12.- This clause provides for special powers to the Chairperson of the Authority.
- Clause 13.- This clause provides for delegation of powers by the Authority.
- Clause 14.- This clause provides for not to undertake any development in the heritage area without permission of the Authority.
- Clause 15.- This clause empowers authorized person of the Authority to enter into any land or building.
- Clause 16.- This clause empowers the Authority to levy fees for grant of permission for development.
- Clause 17.- This Clause provides establishment of the Authority Fund.
- Clause 18.- This clause provides for preparing annual budget of the Authority.
- Clause 19.- This clause provides for preparing of annual report of activities of the Authority during the previous year.
- Clause 20.- This clause empowers State Government for making subventions and loans to the Authority for the purpose of the Act.
- Clause 21.- This clause provides for borrowing any sum required by the Authority for the purpose of the Act.
- Clause 22.- This clause provides for maintenance of books of accounts and audit thereof.
- Clause 23.- This clause provides for penalty for breach of the provisions of the Act.
- Clause 24.- This clause provides for offences by the companies.
- Clause 25.- This clause provides for cognizance of offence by court only on complaint made by authorized officer of the Authority.

- Clause 26.- This clause provides for depositing all fines realized in connection with prosecutions under the Act to the Authority Fund.
- Clause 27.- This clause empowers Authority to issue directions to any Local Authority and other bodies connected with developmental activities in the Heritage Area.
- Clause 28.- This clause empowers the Authority to compromise any claim or demand arising out of any contract entered into by it.
- Clause 29.- This clause provides that every member, officer and employee of the Authority to be a public servant within the meaning of section 21 of the Indian Penal Code
- Clause 30.- This clause provides for usual indemnity for the act done in good faith.
- Clause 31.- This clause empowers the State Government to give directions to the Authority for carrying out the purposes of the Act.
- Clause 32.- This clause provides for over riding effect of other State laws.
- Clause 33.- This clause empowers State Government to make rules to carry out the purpose of the Act.
- Clause 34.- This clause empowers Authority to make Regulations for enabling it to perform its functions under the Act.
- Clause 35.- This clause empowers the State Govt. to remove difficulty arises in giving effect to the provisions of the Act.
- Clause 36.- This clause provides for certain amendments in the Gujarat Town Planning and Urban Development Authority Act, 1976.
- Clause 37.- This clause empowers State Government to apply the provisions of the Gujarat Public Premises (Eviction of Unauthorized Occupants) Act, 1972 to the premises belonging to the Authority.

ANANDIBEN PATEL,

FINANCIAL MEMORANDUM

Sub-clause (3) of clause 17 of the Bill provides for making grant to the Authority of a sum equivalent to the administrative expenses of the Authority till it is able to meet with administrative expenses out of its own resources. The provisions of the Bill, if enacted and brought into operation would involve expenditure from the Consolidated Fund of the State but the exact amount of expenditure could not be ascertained at present.

ANANDIBEN PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely :-

- Clause 1.-** Sub-clause (2) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.
- Clause 2.-** Sub-clause (f) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, the Core Area Zone and the Buffer Zone.
- Clause 3.-** (i) Sub-clause (1) of this clause empowers the State Government to establish, by notification in the *Official Gazette*, the Champaner-Pavagadh Archaeological Park World Heritage Area Authority.
- (ii) Sub-clause (3) of this clause empowers the state Government to specify, by notification in the *Official Gazette*, the head quarters of the Authority.
- Clause 6.-** Sub-clause (2) of this clause empowers the Authority to prescribe by regulation the place and the time of meeting and to observe such rules of procedure in regard to transactions of business at its meeting.
- Clause 7.-** Sub-clause (I) of this clause empowers the State Government to prescribe by rules other powers and functions to be performed by the Authority Security Force.
- Clause 8.-** Sub-clause (2) of this clause empowers the State Government to prescribe by rules, other function to be performed by the Chief Executive Officer.
- Clause 9.-** Sub-clause (4) of this clause empowers the State Government to prescribe by rules the powers to be exercised and duties to be performed by the Planning Officer and the Accounts Officers.

- Clause 11.-** Para (xiv) of this clause empowers the State Government to prescribe by rules other functions to be performed by the Authority.
- Clause 13.-** This clause empowers the Authority to specify by an order, other powers and functions to be exercised and performed by the Chairperson or other officer.
- Clause 16.-** This clause empowers the State Government to specify the rate at which the Authority may levy fees for permission of development.
- Clause 18.-** This clause empowers the State Government to prescribe by rules the form in which and the time at which the budget shall be prepared.
- Clause 19.-** Sub-clause (I) of this clause empowers the State Government to prescribe by rules the form in which and time within which the annual report shall be prepared.
- Clause 21.-** This clause empowers the State Government to prescribe by rules the conditions subject to which the Authority may borrow money.
- Clause 22.-** Sub-clause (I) of this clause empowers the State Government to prescribe by rules the form in which and the manner in which an annual statement of account of the Authority shall be prepared and maintained.
- Clause 33.-** Sub-clause (I) of this clause empowers the State Government to make the rules for carrying out the purposes of the Act.
- Clause 34.-** This clause empowers the Authority to make regulations for carrying out the purposes of this Act.
- Clause 35.-** Sub-clause (1) of this clause empowers the State Government to make by order in the *Official Gazette*, such provisions for removing any difficulty arising in giving effect to the provisions of the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 14th September, 2006.

ANANDIBEN PATEL.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 15th September, 2006.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.